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Social justice and mediation.

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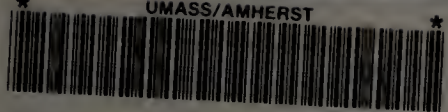
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SOCIAL JUSTICE AND MEDIATION

A Dissertation Presented

by

A. LEAH WING

Submitted to the Graduate School of the
University of Massachusetts Amherst in partial fulfillment
of the requirements for the degree of

DOCTOR OF EDUCATION

May 2002

School Of Education

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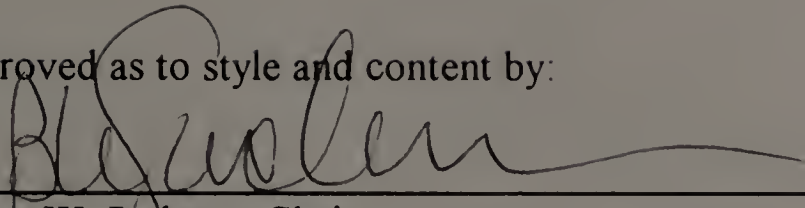
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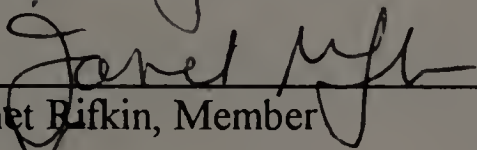
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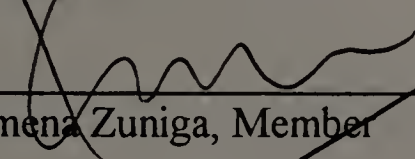
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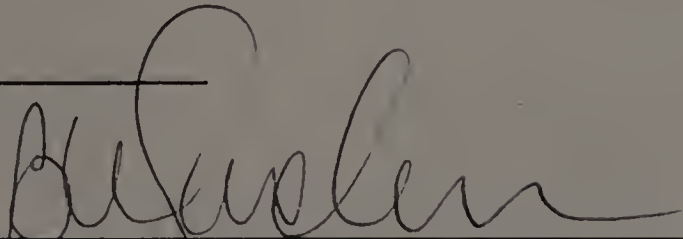
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DEDICATION

For my family
who passed down through the generations
a commitment to justice, peace,
and education

ACKNOWLEDGMENTS

Sincere thanks goes to my committee of Bailey Jackson, Janet Rifkin, and Ximena Zuniga for their guidance of this dissertation and their dedication to my education. They have been a catalyst for my growth as a researcher, educator, and person.

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ABSTRACT

SOCIAL JUSTICE AND MEDIATION

MAY 2002

A. LEAH WING, B.A., OBERLIN COLLEGE

M.ED., UNIVERSITY OF MASSACHUSETTS AMHERST

Ed.D., UNIVERSITY OF MASSACHUSETTS AMHERST

Directed by: Professor Bailey W. Jackson

This study examines how racial oppression is challenged and reconstituted through the narrative process of a mediation. Qualitative research methods are used to identify, describe and analyze themes in the mediation discourse and the narrative strategies employed by the participants, mediators, and coordinator in this case study. Each person in this multi-racial and multi-ethnic group is interviewed twice and their interpretations are used in both the data collection and data analysis phases. In this way, this research project responds to a gap in the literature by including the voices and insights of the mediation service providers and participants in the research process.

The theoretical foundations of this study are based in several literatures: mediation scholarship, social justice literature, critical race theory, and narrative theory. The findings are analyzed using narrative theory and interrogated from a critical race perspective. They demonstrate that the use of narrative strategies based on the U.S. mediation field's core values of neutrality and symmetry result in the reconstitution of racial oppression in this mediation. The narrative analysis reveals that the story of the negative racialization of one of the participants is underconstructed and that the stories

about rules told during the mediation are fully elaborated upon and serve as the basis for the agreement.

The analysis from a critical race perspective offers that the colorblind grand narrative of rules in society provides cultural resonance for the stories of rules and for the narrative strategies based in neutrality and symmetry; however, not for the story of negative racialization. The cumulative effect is the domination by the rules stories of the story of negative racialization. This domination is only briefly challenged through several strategies periodically employed by a participant of color and a mediator of color. The results are that racial oppression is perpetuated both procedurally and substantively in this case. It is hoped that this study will stimulate further research on how racial oppression can manifest in mediation as well as encouraging the exploration of new strategies for narrative facilitation to prevent this from occurring.

TABLE OF CONTENTS

	Page
ACKNOWLEDGMENTS	v
ABSTRACT.....	vii
LIST OF TABLES	xiii
CHAPTER	
1. MEDIATING IN A STRATIFIED SOCIETY	1
Introduction	1
Social Stratification and Mediation	2
Purpose of the Study	7
Significance of the Study	14
Assumptions	20
Exclusions	21
Definition of Terms	21
2. A REVIEW OF SIGNIFICANT LITERATURE.....	23
Introduction	23
A Note about the Sources Used.....	24
A Brief History of the Present Mediation Movement in the United States	26
Ways of Viewing Mediation	30
Four Frameworks.....	33
Agreement Building Mediation.....	37
Community Empowerment Mediation	51
Individual Empowerment Mediation	60
Disempowerment Mediation	66
Critiques From Within the Field.....	73
Conclusion.....	85
An Overview of Racialization Theory.....	92
Critical Race Theory and Dominant Narratives in Society.....	101
3. RESEARCHING A MEDIATION: A PRESENTATION OF METHODOLOGY	107
Introduction	107
Studying the Narrative of Negative Racialization.....	109
Political Basis for the Research Design	112
Site of the Study	113
Test Case	115

Methodology.....	118
Credibility, Dependability, and Confirmability	122
Data Analysis: The Use of Narrative Theory	137
Narrative Theory	138
Narrative Theory as a Data Analysis Methodology	141
Researcher's Position in the Research Process and Limitations of the Study	142
4. FOLLOWING THE STORY OF NEGATIVE RACIALIZATION: A PRESENTATION OF FINDINGS.....	146
Introduction	146
The Mechanics and Logistics of the Mediation	148
The Players	148
Chronology of Events Leading to Mediation	149
Chronological Outline of Events Leading to Mediation	154
Post-Mediation Research Chronology.....	155
The Mediation Session: Timeframe and Structure	155
Timeframe of Mediation.....	162
Total Time in Mediation Room for Each Participant.....	163
The Mediation Site and the Roles of Each Player	163
Presence of the Players in the Chronology of the Mediation	165
The Content of the Mediation.....	166
Overview of the Content Discussed in the Mediation.....	166
Stories in the Mediation.....	170
Codes/Abbreviations of Significant Stories in the Mediation	172
A Closer Look at Storytelling About Negative Racialization	172
Findings.....	174
The Negative Racialization Story.....	175
Perimeters of the Negative Racialization Story (NRS)	177
The Story Features of the NRS: Characters, Plot, and Themes.....	179
Moves Impacting the NRS.....	186
Summary of the Nonverbals, Utterances, and Euphemisms Related to the NRS	186
Players' Strategies Regarding the NRS	197

The Context of the NRS	249
The Relationship Between the NRS, the Rules Stories, the D/Cstory, and the Call to Context: Before, During, and After the Emergence of the NRS	252
Other Significant Topics and Narrative Moves Present During the Negative Racialization Story	273
The Context After a NRS Segment	276
The Place of the NRS in the Mediation Process and Its Agreement.....	277
How Each Player Experienced the NRS: In Their Own Words	278
The NRS and the Foci for Each Player in the Mediation Discourse.....	292
Conclusion.....	300
5. “WE HAVE POLICIES...”: AN ANALYSIS OF THE DOMINATION OF THE STORY OF NEGATIVE RACIALIZATION	304
Introduction	304
A Narrative Analysis of the NRS	306
The Story Components of the NRS: Chronology, Characters, and Themes.....	307
Narrative Closure, Coherence, and Interdependence in the NRS	308
Narrative Analysis of the Rule Stories: RS and MDR.....	319
Rules Story (RS)	319
Traditional Mediation Rules Story (MDR).....	333
Character Roles	333
Themes.....	336
Chronology.....	338
The Completeness of the MDR Story	340
How the Rules Stories Dominated the Negative Racialization Story.....	342
Conclusion.....	348
Implications for Program Development, Educational Instruction, Intervention, and Scholarship	356

APPENDICES

A. FOUR FRAMEWORKS FOR MEDIATION 362

B. CONSENT FORM 364

C. PROTOCOL FOR MEDIATORS VIEWING THE MEDIATION
 VIDEOTAPE..... 366

D. PROTOCOL FOR PARTICIPANTS VIEWING THE VIDEOTAPE 368

E. FOLLOW UP INTERVIEW QUESTIONS FOR THE MEDIATORS 369

F. FOLLOW UP INTERVIEW QUESTIONS FOR THE PARTICIPANTS 370

G. CONSENT FORM #2..... 371

H. LIST OF STARTER CODES 373

I. CODE LIST 375

J. FEATURES OF THE MEDIATION PROGRAM DESIGNED TO DISRUPT
 THE REPLICATION OF PRIVILEGE..... 384

K. NARRATIVE STRATEGIES WHICH FOSTERED THE
 MARGINALIZATION AND DOMINATION OF THE NRS..... 408

L. NRS TRANSCRIPTS..... 409

BIBLIOGRAPHY 444

LIST OF TABLES

Table	Page
1. Methodology Flowchart.....	123
2. Excerpts of the Opening Statement	160
3. Characters in the NRS as Named by the Players in the Mediation	183
4. Context of the NRS.....	250

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TABLE OF CONTENTS

	Page
DEDICATION	iv
ACKNOWLEDGMENTS	v
ABSTRACT.....	vii
LIST OF TABLES	ix
CHAPTER	
1. MEDIATING IN A STRATIFIED SOCIETY	1
Introduction	1
Social Stratification and Mediation	2
Purpose of the Study	7
Significance of the Study	14
Assumptions	20
Exclusions	21
Definition of Terms	21
2. A REVIEW OF SIGNIFICANT LITERATURE.....	23
Introduction	23
A Note about the Sources Used.....	24
A Brief History of the Present Mediation Movement in the United States	26
Ways of Viewing Mediation	30
Four Frameworks.....	33
Agreement Building Mediation.....	37
Community Empowerment Mediation	51
Individual Empowerment Mediation.....	60
Disempowerment Mediation	66
Critiques From Within the Field.....	73
Conclusion.....	85
An Overview of Racialization Theory.....	92
Critical Race Theory and Dominant Narratives in Society.....	101
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Political Basis for the Research Design.....	112

Site of the Study	113
Test Case	115
Methodology.....	118
Credibility, Dependability, and Confirmability	122
Data Analysis: The Use of Narrative Theory	137
Narrative Theory	138
Narrative Theory as a Data Analysis Methodology	141
Researcher's Position in the Research Process and Limitations of the Study	142
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Introduction	146
The Mechanics and Logistics of the Mediation	148
The Players	148
Chronology of Events Leading to Mediation	149
Chronological Outline of Events Leading to Mediation	154
Post-Mediation Research Chronology.....	155
The Mediation Session: Timeframe and Structure	155
Timeframe of Mediation.....	162
Total Time in Mediation Room for Each Participant.....	163
The Mediation Site and the Roles of Each Player	163
Presence of the Players in the Chronology of the Mediation	165
The Content of the Mediation.....	166
Overview of the Content Discussed in the Mediation.....	166
Stories in the Mediation.....	170
Codes/Abbreviations of Significant Stories in the Mediation	172
A Closer Look at Storytelling About Negative Racialization	172
Findings.....	174
The Negative Racialization Story.....	175
Perimeters of the Negative Racialization Story (NRS).....	177
The Story Features of the NRS: Characters, Plot, and Themes.....	179
Moves Impacting the NRS.....	186
Summary of the Nonverbals, Utterances, and Euphemisms Related to the NRS	186

Players' Strategies Regarding the NRS	197
The Context of the NRS	249
The Relationship Between the NRS, the Rules Stories, the D/Cstory, and the Call to Context: Before, During, and After the Emergence of the NRS	252
Other Significant Topics and Narrative Moves Present During the Negative Racialization Story	273
The Context After a NRS Segment	276
The Place of the NRS in the Mediation Process and Its Agreement.....	277
How Each Player Experienced the NRS: In Their Own Words	278
The NRS and the Foci for Each Player in the Mediation Discourse.....	292
Conclusion.....	300
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Introduction	304
A Narrative Analysis of the NRS	306
The Story Components of the NRS: Chronology, Characters, and Themes.....	307
Narrative Closure, Coherence, and Interdependence in the NRS	308
Narrative Analysis of the Rule Stories: RS and MDR.....	319
Rules Story (RS)	319
Traditional Mediation Rules Story (MDR).....	333
Character Roles	333
Themes	336
Chronology.....	338
The Completeness of the MDR Story	340
How the Rules Stories Dominated the Negative Racialization Story.....	342
Conclusion.....	348
Implications for Program Development, Educational Instruction, Intervention, and Scholarship	356

APPENDICES

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B. CONSENT FORM 364

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F. FOLLOW UP INTERVIEW QUESTIONS FOR THE PARTICIPANTS 370

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THE REPLICATION OF PRIVILEGE..... 384

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L. NRS TRANSCRIPTS..... 409

BIBLIOGRAPHY 444

LIST OF TABLES

	Page
Table 1: Methodology Flowchart	123
Table 2: Excerpts of the Opening Statement	160
Table 3: Characters in the NRS as Named by the Players in the Mediation	183
Table 4: Context of the NRS	250

CHAPTER 1

MEDIATING IN A STRATIFIED SOCIETY

Introduction

In the United States, mediation is practiced within a stratified society and yet the mediation field lacks both a sufficient critical analysis of social justice concerns¹ and the attending intervention techniques which would assist in navigating this reality. Over the past thirty years there have been scholars and practitioners from both inside and outside the field who have examined mediation with an eye on social inequities and power imbalance, yet there remains much terrain left to cover.

As the field struggles with such issues as fairness and participation in decision-making, resolution and agreement creation, relationship building and problem-solving, it continues to hold sacred the concept of neutrality. Yet, a critical interrogation of the concepts of neutrality and its corollary, symmetry,² finds that during the mediation process those with greater power in society can be more enfranchised than those with less (Rifkin, Millen, and Cobb, 1991; Rouhana and Korper, 1996).

While this has been substantiated through personal experience and research findings (Baker et al, 2000; Rifkin, Millen, and Cobb, 1991; Cooper, 2001; Rouhana and Korper, 1996), little has been researched or published on how strategies for intervention can be altered based on these findings. This dissertation is an attempt to add to that body

¹A definition of social justice follows later in this chapter under the section, Definition of Terms on page 21.

²The concept of symmetry manifests in mediation, for example, as interveners attempt to treat each participant in the same manner (Rouhana and Korper, 1996).

of knowledge in the hopes that each participant can have an empowering experience in mediation.

Social Stratification and Mediation

U. S. society is stratified socially with resources differentially distributed based on social group membership (Bell, 1997; Rawls, 1971). Access to respectful treatment, employment, housing, bank loans, friendship, educational opportunities, visibility, and life expectancy are unevenly divided among social groupings. The lines of separation between these social entities are socially constructed (Haney Lopez, 1996; Omi, 1997; Nieto, 1992) and have both changed over time in some respects and remained constant in others. In the present day, social groupings consist of categories such as age, ability, gender, race, sexual orientation, and religious heritage/affiliation.

The process of understanding how these lines are drawn, how categories are developed and maintained, notwithstanding the challenge of trying to discern the multiple reasons behind why this occurs, is complex and multifaceted. There is, for example, the fact that individuals self-identify in ways which can and often do change over time and place (Ferdman and Gallegos, 2001); and the fact that others may ascribe an identity to an individual which does not match the individual's self-identity (Rodriguez, 1996; Rodriguez-Morazzani, 1998). It is also the case that different aspects of our identities are interconnected thereby creating realities which cannot be essentialized (Bell, 1997; Harris, 1995). These are just some of the challenges facing those conducting research in this area of study. Because social identities impact the daily life of each person (Delgado and Stefancic, 2001), I argue that they are fundamentally connected to conflict creation,

engagement, and intervention and, therefore, they are relevant to the study of mediation theory and practice.

Since conflict occurs within a larger social context in which aspects of identity and oppression³ are present, these factors ought to be fundamental to our consideration of mediation intervention techniques and processes. In what ways can mediation contribute to the privilege⁴ some receive and the disenfranchisement and discrimination others experience? Since these conditions already exist in the social and political relations and experiences of those “at the table,” how do they play out in a mediation session and its outcome? In what ways might a mediation intervention offer opportunities to undermine these conditions both inside and outside of mediation as well? This study was conducted to critically interrogate how the mediation process can serve to perpetuate or interrupt the disenfranchisement of some and the attending privilege of others within a mediation session. It sought, in particular, to explore how racial oppression was fostered or undermined during a specific mediation case.

The consideration of identity-related power inequities have had a tenuous home in the mediation field as it has grown over the past thirty years. While they have not had significant visibility in the field, there are programs and literature which have considered aspects of these issues (Chesler, 1991; Gadlin, 2001; Rothman, 1997; Taylor and Beinstein Miller, 2001). For example, it would not be rare to find mediation programs

³The definition of oppression as I use it in this dissertation is found in the Definition of Terms section on page 21.

⁴The definition of White privilege as I use it in this dissertation is found in the Definition of Terms section on page 21.

which provide male and female co-mediators for divorce cases; acknowledging that the gender identity of mediators may play a role in building trust with participants. Some scholar-practitioners have offered advice on how to handle disputes involving those with differing status based, for example, on inequities due to uneven access to money and/or decisionmaking power (Dukes, 1993; Kritek, 1994; Susskind and Cruikshank, 1987). However, these ideas and practices have stood out in relief against the constant feature of the mediation field: its commitment to the ideas of neutrality and symmetry.⁵ In fact, the consideration of identity-related power issues have been seen by many as inconsistent with these core values. The refrain for mediators has been, treat each participant the same and do not have an investment in the substance of their agreements (Rouhana and Korper, 1996)—two typical ways in which symmetry and neutrality are articulated by practitioners.

While these two concepts are examined more thoroughly in Chapter Two, I will briefly discuss them here to highlight the philosophical foundation of the field with which any examination of identity and power must engage. Mediation interventions have seemingly required a belief that not taking sides/being impartial and being equidistant from each participant are useful strategies to use in the service of neutrality and symmetry (Rifkin, Millen, and Cobb, 1991). Therefore, procedural fairness (read symmetry) and neutrality are the *raison d'être* for many intervention strategies. Procedural fairness—framed as symmetry—is believed to create a legitimate process and

⁵See Rifkin, Millen, and Cobb (1991) and Rouhana and Korper (1996), respectively, for their critiques of these topics.

outcome serving all participants⁶. This reflects a particular cultural worldview which, for the most part, has gone unnamed and unexamined in the field. Therefore, while articulating a commitment to neutrality, in actuality, the mediation field has routinely espoused a set of values and beliefs which have been the driving force of the practice in this country.

These values and beliefs are imbedded in a Western ideology of positivism. The positivistic approach assumes that it is possible for the observer to be separate from the observed. In effect, that one can conduct an intervention (whether it be as a scientist leading an experiment or as a judge, jury, or mediator engaged in a proceeding) without having one's own experiences or values permeate the process (Borg and Gall, 1989). This outlook does not account for the fact that attempting to be disconnected from those with whom and for whom one is intervening reflects a set of values; or that choosing to intervene to resolve a dispute without violence or to assist parties in improving their communication is a symbol of one's belief in what humans are capable of accomplishing together. Such a view also does not consider what impact the intervener has on the course of a mediation, as she guides the process by asking certain questions and not others, for example.

The often unspoken commitment to this underpinning of Western values, the belief in positivism and its attending concept of neutrality, is at the core of the hegemonic paradigm which permeates mediation literature and practice in the U.S. As previously

⁶In Chapter Two's discussion of mediation literature I further explore the different ways in which practitioners and scholars have articulated what constitutes a legitimate process. Central to almost every approach is a commitment to symmetry.

mentioned, mediators typically attempt to operationalize neutrality by attempting to position themselves in a symmetrical relationship with the mediation participants, equally distant from each of them (Rifkin, Millen, and Cobb, 1991). One way of viewing this desire for symmetry is to see it as a part of liberal philosophy,⁷ reflecting a commitment to equality. While this likely is a reflection of a caring heart and an ideological concern for fairness, we need to ask what the consequences are when a mediator treats equally those who are on an uneven playing field? In this stratified society, we must ask, what is the meaning of seeing oneself as neutral, of desiring to be neutral, and of treating all participants the same in such an environment? This further leads us to ask who is better served when power inequities are not considered in a mediation and differing experiences of violence and of access to power, decision-making, money, and respect, for example, impact the lives of the participants?

Beginning with a set of concerns about social inequality has influenced the lens through which I have looked at the mediation in this study. It has meant that I have questioned the basic tenets of the way mediation is practiced in this country. It has raised perhaps the most significant question for me, who benefits from this approach? My fundamental proposition is that those participants in a mediation who have privilege due to their social group membership are better served by a process based on symmetry and neutrality.

⁷See Mari Matsuda's explanation and critique of liberalism in "Looking to the Bottom" in Crenshaw et al (Eds.), Critical Race Theory, New York: The New Press, 1995.

Purpose of the Study

Beginning with the premise that social stratification permeates the workings of our lives on a daily basis, I conducted research to examine ways it could impact a mediation process. More specifically, I investigated how racial oppression was disrupted and reproduced in a mediation case. This investigation was guided, in particular, by scholarship on critical race theory and narrative theory. While critical race theory emerged from the legal field as, primarily, some scholars of color sought to critically examine the relationship between law and racism, it proved useful in examining the relationship between mediation and racism in this case.

Race critics, as many writing from this framework call themselves, posit that the socially constructed category of race serves to promote benefits for Whites⁸ both psychologically and materially. They also argue that racial privilege is a daily occurrence for Whites just as the effects of racial discrimination and being targeted is for people of color. They argue that “a unique voice of color” results from the different histories and experiences with racial oppression that people of color and Whites have (Delgado and Stefancic, 2001, p. 9). And therefore that it is important for people of color to articulate their experiences—to narrate. For example, Delgado and Stefancic (2001) point out that what they refer to as the minority status of scholars of color brings with it a specific position that can be used to provide insight into and public naming of experiences with racism.

⁸Here, critical race theorists are referring to those who are non-Hispanic and non-Latino Whites.

However, race critics note that these experiences and knowledges are not reflected in the “master narratives” present in society and particularly in the law. Instead, master narratives are a reflection of the experiences of those who are privileged by racism—Whites. One of the results of this that woven into the master narratives is the idea that racism is a deviation from the norm; that it does not exist unless it violates a law or can be proven to have been intentional, for example. In other words, the way that laws have been written and interpreted are manifestations of the experiences and perspectives of Whites.

Critical race theorists use the concept of master narratives to define and critique how racism and White privilege permeate the law through constructs such as legal narratives. They argue, then, for the importance of counter narratives; the creation and narration of stories which poke fun at, undermine, and discount the ideology and assumptions present in the master narratives. They encourage the presentation of alternative interpretations of reality based on the lived experiences of people of color and particularly as articulated by people of color (Delgado, 1995; Delgado, 1998; Delgado and Stefancic, 2001; Matsuda, 1995).

While Race Critics focus their attention on using this narrative technique to assess the presence of the master narrative in the law, their approach is also applicable to the study of mediation. The ability to articulate an alternative to the master narrative, whether in law or mediation, is not only a way of naming a reality, but of carving out a discursive space upon which a more just one can be built. Therefore, I found the narrative approach of critical race theory useful for analyzing the racial implications of which stories successfully emerged during the mediation in this case study and which did not. The

concept that access to narrative space for empowerment is crucial for the political struggle against racism dovetails other scholarship I found particularly useful for this research.

Rifkin, Millen, and Cobb's (1991) application of narrative theory to mediation informed my study as well. They posit that despite the common rhetoric, mediation is not a neutral intervention based on managing problem solving, for example, but rather a political process of story facilitation. According to Rifkin, Millen, and Cobb (1991), the ability to tell one's story in a mediation—to describe the events and circumstances involved—and to have this responded to and built upon by others is a key unit of power which exists in a mediation. It is participation in a legitimized narrative that provides one enfranchisement in a mediation, argue Rifkin, Millen, and Cobb (1991). They frame the mediators' facilitation of these stories as political acts since there are a number of factors related to social stratification that influence whose stories are more easily told, responded to, and built upon. If one's narrative is not responded to or built upon due, at least in part, to social identity, then, in the end, these factors directly affect the content of the future story (any plan or agreement that may emerge from a mediation session). This can impact the lives of the mediation participants well into the future and have a direct impact on their material reality. Thus, Rifkin, Millen, and Cobb's (1991) framing of mediation as a political discursive process resonates well with a study of how mediation can perpetuate racism through differential access to power through narrative.

Rifkin, Millen, and Cobb (1991) offer us a paradigmatic shift away from neutrality and guide us into the territory of considering the politics of participants' realities. What are the specifics of their identities, their personalities, or their

relationships with each other which will assist them or undermine them in the process of telling their story or engaging with another's story within a mediation session? Rifkin, Millen, and Cobb (1991) also provide a set of analytical tools for examining these questions with regards to the mediators themselves.⁹ For, they too, have identities which impact the relational dynamics between themselves, as well as between themselves and the participants. Their life experiences and expectations also impact the story facilitation process.

Applying Rifkin, Millen, and Cobb's (1991) analysis and uncovering the political nature of the narrative process in mediation is useful for understanding how the conditions and relations between participants—as well as the mediators—are often asymmetrical. Moreover, it brings to the forefront the fact that mediators need to be prepared to intervene asymmetrically to offer full access to storytelling and story construction to each participant in the session. With this knowledge, questions emerge regarding how we can create an intervention model and train mediators to understand the politics of story facilitation; or how to develop strategies which can effectively interrupt oppression dynamics within a session. This inevitably requires turning away from neutrality and symmetry.

These and many other questions were raised for me as both a mediator and a social justice educator as I surveyed the literature and then formulated and conducted the study. While the questions I developed for this project evolved over the course of

⁹This is especially important to consider in cases where co-mediators are used.

preparing for and undertaking this research,¹⁰ I settled on one overarching question to explore and several secondary questions which I sought to answer as well. They are as follows:

“How can mediation interrupt racial oppression through narrative facilitation; thereby creating a more socially just practice?”

Secondary research questions:

1. How is the story of negative racialization addressed throughout the mediation?
2. How is the story of negative racialization challenged or undermined?
3. In what ways do the participants and mediators experience the story of negative racialization when it is introduced, discussed, and dropped from the discourse?

It was at a program which was experimenting with these considerations regarding social justice and narrative in mediation that I conducted research for this dissertation.¹¹ This provided me with the opportunity to explore the ways in which dynamics of oppression, namely racial privilege and racial disenfranchisement, were undermined and reconstituted in an actual mediation case. I examined ways in which the mediators' interventions relied on traditional mediation practice—based on notions of symmetry and

¹⁰I explain the process of this evolution in further detail in Chapter Three.

¹¹Before undertaking this study, when I first became interested in researching the operationalization of Rifkin, Millen, and Cobb's (1991) approach, I worked in conjunction with Janet Rifkin and Martha Wharton to explore new intervention possibilities. We designed a mediation program and training which was fundamentally concerned with issues of social stratification. It included a consideration of some specific issues related to oppression such as identity development, power, and institutionalized privilege and discrimination. It appeared evident that to incorporate this into their interventions, mediators needed a clear commitment to a set of beliefs focused not on being distant, disconnected, or neutral—but rather on accounting for the realities of discrimination and privilege. This approach was designed to further an explicitly political view of mediating.

neutrality—and ways in which their practice reflected an approach designed for narrative enfranchisement, therefore requiring and allowing for asymmetrical interventions.

For this research, I examined the process of narrative facilitation during a mediation and used frameworks and concepts from Rifkin, Millen, and Cobb's (1991) work on narrative mediation, critical race theory, and other social justice literature to analyze my findings. In addition, I utilized racialization theory and critical race theory¹² to both guide what I looked for and to interpret the patterns I identified. The mediation case I studied involved players from different racial backgrounds and issues of racism and racialization were a part of their narratives in both the mediation session and the follow up interviews I conducted as part of this research. The mediation involved two participants. One participant is a woman who was raised in Puerto Rico, whose first language is Spanish, and she is bilingual (Spanish/English). She was a tenant in an apartment complex and identifies as being of African, indigenous Caribbean, and White descent. The other participant is a White woman whose first language is English. She is from the U.S. mainland and was the manager at the apartment complex. The two mediators included a White, female mediator from the U.S. mainland whose first language is English; and a Columbian female mediator who identifies as multiracial, speaks Spanish as her first language, and is bilingual (Spanish/English). The mediation coordinator is an African American male born on the U.S. mainland, whose first language is English and who is bilingual (English/Spanish).

¹²Racialization theory and critical race theory are both explored in the literature review in Chapter Two.

The methodology used in this study included a component designed to solicit insights from each player in the mediation—the participants, the mediators, and the coordinator. This was achieved by holding two extensive interviews with each person and by providing each of them with an opportunity to view the videotaped sections of the mediation in which they took part. I structured the research in this way to ground the analysis in the experiences of those who were creating the data being gathered.

In this way, I also broadened the analysis by seeking the insights of those who participated in the session; and this provided a rare opportunity to hear from those whose voices are usually not present in mediation literature. This was a conscious effort to “look to the bottom” (Matsuda, 1995) for information on how mediation practice impacts those with the least power “at the table” (Delgado and Stefancic, 2001).

The study was an exploratory work, a first step in the direction of uncovering racial privilege and racial disenfranchisement in mediation and an attempt to highlight successful strategies for undermining these dynamics. The examination of the narrative process in this mediation provided rich data for answering the research questions with regards to this particular case.

The project was carried out according to principles of qualitative research and therefore the findings and analysis are not offered as necessarily applicable to a range of other cases or situations. However, it is my hope that what I present here may provide a stimulus for further investigation of issues related to racism and mediation by future researchers.

Significance of the Study

This study contributes to the mediation field a research-based critical analysis of how mediation practice can serve to perpetuate as well as interrupt White privilege¹³ and racial disenfranchisement for people of color. To my knowledge, it is the first study aimed at operationalizing Rifkin, Millen, and Cobb's (1991) application of narrative theory to mediation. And it is also a first effort at exploring the impact of symmetrical and asymmetrical interventions in a mediation program which attempts not to be driven by neutrality, but rather by social justice concerns regarding access to narrative participation (see Appendix X). In addition, it appears to stand alone as a study which used participant, mediator, and coordinator input and analyses as central methods of gathering data and making meaning of it. These are some of the ways in which it contributes to the research in both the fields of mediation and social justice education.

Placing this in the specific context of racial privilege and racial disenfranchisement, this study's findings challenge the mediation field to look closely at the ways mediation practice can reconstitute racial inequities through the very interventions mediators hope will empower each participant. For example, one significant finding which emerged from this study demonstrated that despite repeated attempts by the two Latinas¹⁴ to engage in a narrative about the negative racialization¹⁵ of the Puerto

¹³I offer a description of the term White privilege in the section, Definition of Terms, found later in this chapter on page 21.

¹⁴Throughout this dissertation I use the terms "Latina," "White," and "African American" to refer to those involved in the mediation. These are not offered as equivalent categories but rather to reflect the terms of self-identification that each player used to describe her or himself in relation to others. Yet, I recognize that there is the possibility that some players might have used different terms had Spanish been the language of

Rican participant, this story never fully emerged during the mediation. As a result, the agreement made by the two participants was not based on this underdisclosed story. This reveals the narrative disenfranchisement of the Puerto Rican participant which occurred not only during the mediation process itself, but also manifested in repercussions which continued to appear over the months following the mediation. In fact, six months later this participant stated that what she had considered as the real problem had not been taken care of through mediation. She articulated that this problem was the experience of being negatively racialized at her apartment complex—the focus of the narrative which had not been fully told or engaged with during the mediation.

Therefore, during this mediation the Puerto Rican participant was disenfranchised both procedurally and substantively. This manifested in the White participant (and

conversation in the mediation and the interviews (Venator-Santiago, 2002). While the terms White and African American are typically referred to as racial categories on the U.S. mainland, there is often debate and ambiguity about using the term Latino/a to refer to a racial category (Ferdman and Gallegos, 2001). Many argue that all of the various socially constructed racial categories typically used on the U.S. mainland are present among Latino/as as a ethnic group. Others argue that Latina/os experience racism and therefore are people of color despite any other racial category under which they might fall (Martinez, 2000; Rodriguez-Morrazani, 1998). And still others identify Latino/as as a distinct racial category (Ferdman and Gallegos, 2001). The limitations and complexity of using terminology to identify someone else as a member of a particular group can be exacerbated by the fact that some may view whatever categories are chosen as non-equivalent. In addition, the role of researcher as the ‘giver of names’ cannot be separated from the socio-political position in society of the person who is researching; and as a White and Anglo researcher, I accepted the identifiers that people gave to themselves. This fits with my methodology (see Chapter Three) which was based on having those involved in the study name their own experiences. Therefore, I chose to use the terms the players selected to represent themselves and to provide a description of some of the complexities of (negative) racialization of Latino/as in the U.S. in Chapter Two.

¹⁵ A description of the term racialization and how I use it in this dissertation is found under the section, Definitions of Terms, which follows on page 21.

mediator)¹⁶ not having to deal to any great extent with the Puerto Rican party's naming of her negatively racialized experience. In effect, then, this also resulted in White racial privilege in both the procedures and in the substance of the agreement made through the mediation.

Another significant finding which may raise questions which have broad implications for the field relates to the role that rules play in mediation. The study found that the narrative on negative racialization was repeatedly interrupted by the narratives on rules; this included discussions about the rules of a traditional mediation process as well as about rules in society at large. I argue that this is not circumstantial or random, but rather that it is a manifestation of racial inequities which are structured into U.S. society and appear in the dominant narratives which are replicated in mediation as they are elsewhere (Bell, 1997; Delgado and Stefancic, 2001). The power of the dominant culture's values, (a focus on rules), as well as the power of silence regarding racial stratification work hand-in-hand in this society to maintain racism (Bell, 1997). The result is the daily acting out of racism on individual, cultural, and institutional levels in society (Delgado and Stefancic, 2001; Hardiman and Jackson, 1997).

The reliance on rules, even when applied symmetrically to people of all races, does not result in a sufficient enough attack on White privilege to eliminate it (Bell, 1997; Delgado and Stefancic, 2001; Zuniga and Casteneda, 2000) in daily interactions or in a mediation session. In fact, a reliance on rules can actually serve to mask the realities of racism (Delgado and Stefancic, 2001).

¹⁶ as well as the White non-Latino residents of the apartment complex who were affected by the mediation agreement.

My analysis concludes that the domination of the narratives about rules over the narrative of negative racialization resulted from interventions which were based on attempts to create symmetry and neutrality in the mediation. The ways in which the attempts to treat the parties in the same fashion resulted in a lack of discursive space and support for the narrative of the participant of color and led to undermining her story about negative racialization. Strategies intended to create symmetry ended up responding to the needs of the White participant. Such needs, I argue, have been used as the standard upon which traditional mediation rules have been based.¹⁷ Therefore, the use of strategies intended to demonstrate neutrality or intervene symmetrically ended up benefitting the Whites and Anglophones involved with the mediation and disadvantaging the Latina players.

My analysis demonstrates how such narrative domination disparately impacted the participants during the process as well as in the agreement they reached, resulting in a reconstitution of White privilege and of racial inequity both procedurally and substantively. The mediation served to reconstitute White privilege (and Anglophone privilege) both through the ways in which the stories were facilitated during the

¹⁷ One example of this is the reliance on the assumption that if one participant has concluded in telling her story to the mediators in a certain amount of time that the other participant ought to receive only approximately the same amount of time to speak as well. Otherwise it can be viewed by traditional mediation practice that the mediators are creating an imbalance and favoring one party over another. In this case study, the participant who spoke English as her first language completed her story more quickly than the participant who was speaking English as her second language. Holding the entire mediation in English and then using the Anglophone's timeframe as the standard is a way in which an attempt at symmetry privileged the Anglophone party at the expense of the Spanish speaking party. This occurred on a number of levels beyond this language example and is explored in depth in the analysis in Chapter Five.

mediation session and also by the accompanying results; for instance, which stories were discussed more fully and which plans were made during the mediation between the participants. The disenfranchisement of the Puerto Rican tenant was reconstituted in the domination of her narrative and the absence of its influence on the outcome of the mediation.

What was learned through the analysis of this one case is merely a start and yet it has, I hope, exciting implications for the field. It reinforced that the power of narrative articulation and construction is fundamental to enfranchisement (Delgado and Stefancic, 2001) and participation in a mediation (Rifkin, Millen, and Cobb, 1991). It also demonstrated that narrative theory can provide useful concepts for analyzing how one narrative can come to dominate another and that when narrative analysis is combined with an oppression analysis, it can offer a new lens for understanding how racial privilege and racial disenfranchisement can be reinforced procedurally and substantively in mediation. For example, I used a political narrative analysis (Rifkin, Millen, and Cobb, 1991) in conjunction with theories of oppression (Hardiman and Jackson, 1997; Harro, 1994), racialization (Haney Lopez, 1996; Rodriguez-Morazzini, 1998), and critical race studies (Delgado and Stefancic, 2001; Crenshaw et al, 1995) to elucidate the ways in which particular interventions reflected principles of symmetry or neutrality, while others reflected principles of asymmetry and multipartiality.¹⁸ This, in turn, shed light on the

¹⁸ Multipartiality is a term from the work of Rifkin, Millen, and Cobb (1991), reflecting the condition of assisting each participant, according to his or her needs, to fully engage in the narrative process. It accepts as a premise the likelihood that this will require asymmetrical interactions.

predominantly unsuccessful attempts at interrupting racial oppression dynamics and on the strategies which were the catalyst for their reconstitution.

It is evident that much more needs to be understood about the relationship between participant narrative and mediator intervention. In particular, further research on the power of the dominant narrative (here, a story about rules) is necessary to help mediators understand better how to ensure that it does not colonize the weaker narrative, (in this case, the story of negative racialization). This will require a significant amount of additional research on asymmetrical interventions. It is my hope, therefore, that those strategies which briefly interrupted the dominant narrative in this case study may be as useful as a starting point.

This study can also be instructive for interveners, trainers, and program directors as they consider its implications for their intervention techniques, training materials, and (more significantly than I had previously realized), the rules they use in guiding a case through the mediation process. It can be useful to scholars for designing research projects which trace the relationship between dominance, story facilitation, and mediation outcomes to explore ways to more fully enfranchise each participant.

An examination from this perspective can be called a social justice approach to mediation. While this is certainly not the only conceivable social justice approach, it offers one of a number of possible lenses to focus our attention on the realities of social stratification so that they can be effectively responded to in mediation. The findings in this dissertation point to the need for more research in this area, grounded in actual case studies of mediation practice. In a field which prides itself on its dedication to a fair and neutral process by offering symmetrical treatment to each participant, this study may

raise a number of important questions for practitioners, scholars, and future mediation participants, alike.

Assumptions

A number of assumptions underlie the choices I made about which literature I used and what methodology I undertook for this study. First and foremost, I functioned under the assumption that location matters; that social stratification exists and that how it impacts us—the unearned benefits we receive, the discrimination we experience in our lives—influences our participation in a mediation; no matter what role we may play in that process.

This assumption influenced the methodological choices I made. I was determined to seek the reflections and analyses from each player in the process. This was based on the fact that as a White and Anglophone I was sure that despite my best efforts to fight racism and White and Anglophone privilege, there would be things that I would not see and that the analyses and perspectives of the players of color would be invaluable to this research in that respect (Matsuda, 1995). I also assumed that the best way to learn about participants' experiences in mediation would be from the participants; and that the best way to uncover the motivations and intentions behind mediators' or a coordinator's strategies would be from them (Merriam, 1990). Therefore, asking for each players' input was a given in this undertaking.

My assumptions also include a belief in the ability of humans to be oppressive and self-oriented; oblivious to their privilege, and at times, not caring enough to undermine it even when they are aware of injustices which benefit them at another's expense. At the same time, I believe in the human capacity to work for mutuality, for

social justice, and to engage with an investment in community and relationships which are based on caring and respect. I believe that mediation has the potential to provide an avenue in which healing, shifts in power, and increased understanding can occur in individual relationships; and that the use of mediation techniques can assist people to create positive changes in institutions and communities on a grander scale. To return to where I started, in a stratified society conflict can facilitate social change, in fact, it is required for just such an effort. Therefore, mediation can either be a forum for harnessing conflict in the service of such change or it can undermine it.

These assumptions were fundamental to my commitment to strive to improve mediation theory and its practice. With compelling evidence that racism is alive and well in our society as well as within the mediation field (Baker et al, 2000; Cooper, 2001), I relied on these assumptions to carry me forward in the search for more socially just ways of practicing mediation.

Exclusions

This study is focused only on mediation practice within the last thirty years on the United States mainland; not including its territories/colonies. It does not include either labor or international mediation.

Definition of Terms

Below are definitions of several terms which I use throughout the dissertation.

Included are references to the scholarship which primarily informed these definitions.

Oppression: the systematic and institutionalized subjugation of one group (targets) by another (dominants) for its own benefit; which systematically and institutionally privileges the dominants at the expense of the targets. This includes psychological colonization of the target group; the “Othering” of the target group and their culture; and the placing as central and normal the culture of the dominant group (Hardiman and Jackson, 1997).

Racialization: the process and structures by which an individual and/or group is categorized by associating them with others seen as belonging to the same socially constructed racial group. When this process results in sustaining inequality and injustice for a group or individual based on such groupings (Small, 1999) I refer to it as negative racialization.¹⁹ Common markers for racialization are: ancestry, phenotype, hair texture, facial features, eye color, heritage, and national origin (McLemore, Romo, and Baker, 2001; Saragoza, Juarez, Valenzuela, and Gonzalez, 1998; Todorov, 2000).²⁰

Race: a socially constructed category used to group people according to markers reflecting physical appearance, cultural background, and heritage (Haney Lopez, 1996; Hardiman and Jackson, 1994). This definition does not necessarily require that the results of using the socially constructed category of race sustain inequality and injustice (Hardiman and Jackson, 1994); however, such is the case in U.S. society today (Delgado and Stefancic, 2001; Zuniga and Casteneda, 2000).

Social Justice: the conditions in which each person, group, and community has access to the resources they need for connection, health, safety, and prosperity; in which each has agency for the determination of their future and a sense of interdependency, caring, and responsibility for others; this is viewed as an enduring process and goal for society (Bell, 1997; Rawls, 1971).

White privilege: the unearned benefits given to those who are viewed as members of the White racial group due to their racial ascription (McIntosh, 1997; Wildman and Davis, 1995).

¹⁹I developed this term after a thought-provoking conversation with Dr. Bailey Jackson.

²⁰A more lengthy description of the applicability of the concept of racialization to my study is offered in Chapter Two.

CHAPTER 2

A REVIEW OF SIGNIFICANT LITERATURE

Introduction

In a society stratified by race, gender, age, class, sexual orientation, and other categories mediation is challenged to consider its relationship to such stratification. I sought to examine how the literature in the mediation field engaged with this challenge of creating effective mediation interventions which could account for disparate experiences based on inequalities tied to social group membership. For the most part, the field has failed to respond at all, let alone successfully, to this challenge (Baker et al, 2000; Chesler, 1991; Cooper, 2001). Yet, there are some scholars and practitioners who have asked some crucial questions, experimented with useful strategies, and enjoined the field to self-critique regarding these issues. They have planted seeds which are of particular use in my research on racial disenfranchisement, racial privilege, and mediation.

First, it helps to begin with a brief look at what has been the foci of the mediation field and what have been central values of the field which are reflected in its literature. It is neutrality and symmetry which stand at the heart of the present mediation movement—its scholarship and typical methods of intervention. These highly valued concepts appear present throughout the description of the leading theoretical frameworks as well as the strategies and techniques laid out in manuals, training guides, and ethical guidelines representative of these leading approaches.

This chapter, therefore, first explores the leading theoretical frames found within the mediation literature and uncovers the mantra of neutrality and symmetry which resonates beneath them. Next, I look at the critiques of the field which aim to challenge

its lack of attention, according to some, and its lack of effectiveness, according to others, in dealing with issues of social stratification. In particular, I will present a brief review of critical race theory (CRT) which provides a critique of neutrality and symmetry, arguing that they are likely to perpetuate racial inequality in a racially stratified society. I will use CRT to lay out the theoretical framework which has informed my examination of the literature in the field and my analysis of the data collected for this study. Following that section is a brief review of racialization theory which was used to articulate and organize the data gathered.

A Note about the Sources Used

The literature review encompasses both published and unpublished materials. Beyond the review of scholarship which can be found in a library, I also culled information from nonformal literature such as mediation program manuals, mission statements, brochures and training tools—much of which is not formally copyrighted or published—as well as from discussions with others in the field, conference presentations, and personal experience. I chose to use these nontraditional resources for a number of reasons. The field is relatively new and there is a significant amount of material utilized which has not been published. This is particularly the case for those working in community mediation centers, in school and family programs which are not heavily funded and are predominantly volunteer-based; as well as in online dispute resolution which is a new frontier exploding daily with new applications and communications (Katsh and Rifkin, 2001).

Most who have considered the relationship between social stratification and mediation have been those writing from outside the field. How has demographics of those

who have been published, and who has not, made any impact on what issues are explored in the literature? This question has lingered in my mind as I have surveyed the scholarship and pondered what was missing. It remained forefront in my thoughts as I considered how the dominant view has been to see mediation as a process which promotes neutrality and at the same time does not significantly consider the impact of social inequities as they fuel, manifest in or impact conflict and mediation.

Let me state from the outset that overwhelmingly those who are published authors and conference presenters in the field of mediation within the U.S. are White.²¹ This does not proportionally reflect the number of people of color who are practicing or researching in the field. So, I and others ask, how might this reflect how racial privilege plays out in whose voices and perspectives are valued in the field and in society at large (Baker et al, 2000; Cooper, 2001)? An examination into why and how this replicates issues of racial oppression in areas such as access to publication, leadership for conference presentations, and foundational support is touched upon in Jones and Kmitta (2000)²² as the authors argue that the mediation participants certainly, as well as the field as a whole has suffered due to this exclusion.²³

²²See in particular Baker, French, Trujillo and Wing, "Impact on Diverse Populations: How CRE Has Not Addressed the Needs of Diverse Populations" in Jones, T.S. and Kmitta, D. (Eds.). (2000). Does It Work? The Case for Conflict Resolution Education in Our Nation's Schools. Washington, DC: CREnet.

²³The implications of this for those receiving mediation services have only been superficially examined in the literature but even those findings look dismal (Jones and Kmitta, 2000). If racial inequity in this country has not been accounted for or paid attention to in any significant way in mediation intervention practices, program designs, theoretical developments, or research undertakings, then is it a surprise that the results of

A Brief History of the Present Mediation Movement in the United States

Before offering a more extensive review of the significant scholarship in the field, I offer a brief historical overview of the last thirty years of the mediation field in the United States to place in context both this dissertation research and the existing scholarship. Mediation as a field is new to the United States, emerging out of attempts to respond to a variety of problems facing society such as overcrowded court dockets, violence, issues of access to the justice system, alienation, lack of community, and a desire to encourage democratic participation and empowerment for individuals and communities, for example. Writing in 1994, scholar-practitioner, Deborah Kolb pointed out,

“while the role is an old one, only in the last ten to fifteen years has mediation become a formal complement to dispute resolution in a wide array of social arenas. Traditionally adjunct to labor and international negotiations, mediation is now predominantly used in divorce proceedings; in civil, consumer, and commercial relations; for the purposes of environmental planning and siting; to assist the development of governmental procedures and regulations,” (Kolb, 1994, p. xiii).

How did mediation become an increasingly common avenue for resolving disputes in a number of areas of U.S. society? It had been absent from mainstream culture just thirty years ago and yet, now it is increasingly visible in many arenas of public life. The growth of the mediation field is connected to what is referred to as the Alternative Dispute Resolution movement (ADR) which includes other dispute resolution forums such as arbitration, ombuds offices, mini-trials, and rent-a-judges. The growth of ADR

the few studies conducted have found that many people of color see mediation as it is commonly practiced as relatively irrelevant to their realities (Baker et al, 2000; NCPCR, 2001). What meaning can we make of this? It appears that this field, as a whole, is just at

was stimulated in the 1960's by a number of factors: the increasing conflict within the nation over the U.S. engagement in South Vietnam; the breakdown of traditional institutions that had played a mediating role such as the family, religious organizations and community leadership; and increased court action over civil rights and environmental protection (Goldberg, Greene, and Sander, 1985).

All these factors led to a significant growth in the use of courts with the attending problems of court overcrowding, rising court costs, and increasing outcries from judicial administrators, lawyers and litigants that denial of access to justice was on the rise. The resulting demand for more judges, more courts and for an exploration of alternative ways to resolve and handle disputes came at a time in U.S. history when there was a national interest in de-legalization (Harrington, 1985), anti-professionalism, and in increasing the power of the populace (Goldberg, Greene, and Sander, 1985). There was a growing belief that mediation could help “people take charge of their own lives instead of expecting elites—whether government or business, physicians or lawyers—to satisfy their needs” (Leonard Riskin cited in Goldberg, Greene, and Sander, 1985, p. 135).

Also, during this time increasing numbers of community activists and educators demonstrated an interest in teaching conflict resolution skills in neighborhoods, in the classroom and in starting community mediation programs with volunteers and peer mediation programs in schools, colleges, and universities (Girard, Rifkin, and Townley 1985; Shonholtz, 1984). Supporting the school-based efforts by public health officials who saw the benefits of teaching and offering mediation in the educational setting to

the start of the journey of examining the relationship between mediation and the experiences of people of color.

reduce violence and keep at-risk youth in school (Prothrow-Stith, 1989). Mediation in school settings were early examples of programs with an orientation focused on individual problem-solving and empowerment through mediation. Community mediation centers were often established with an interest in the involvement and empowerment of communities as a whole, not only their members.

In 1976, the American Bar Association (ABA) established a Special Committee on Minor Disputes which later became the Special Committee on Dispute Resolution. At the historic Pound Conference (1982) on the Causes of the Popular Dissatisfaction with the Administration of Justice, Chief Justice Warren Burger spoke of the need to look beyond the courtroom to assist in the administration of justice due to overcrowded dockets. Many conservative judicial administrators supported these efforts in order to reduce the number of cases that had been coming before the courts due to the expansion of civil rights; and many progressives and liberals supported this because they wished to see people have more control over their own disputes (Auerbach, 1983).

This resulted in some courts developing multidoor courthouses in which clerks could funnel cases to mini-trials, arbitration, mediation or the appropriate courtroom depending on the nature of the dispute (Goldberg, Greene, and Sander, 1985). This support for mediation concentrated upon conflict reduction through its use in out-of-court agreement building. There were also some who protested these efforts, for fear that individual civil rights could and would not be protected in mediation sessions. These are examples, early in the development of the field, of the debate over the legalization and delegalization of what is often referred to by critical legal studies theorists as informal

justice (ADR), (Harrington, 1985); this debate still exists today and is part of the critique of mediation offered by critical race theorists.

Mediation grew in visibility as program usage increased, more research was conducted and published about its achievements, courts developed formal procedures for diverting cases to mediation, and as greater numbers of lawyers, community members, and school children were trained in mediation techniques. This led to mediation being viewed as not only a field, but a movement (Pipkin and Rifkin, 1984). Organizations cropped up to support practitioners, researchers experimented to demonstrate trends, and scholars chronicled patterns of practice and unofficial standards. By the mid-80's the mediation movement had expanded its venue to include environmental, divorce, parent, adolescent, community, school-based, governmental, and public policy mediation. The International Society of Professionals in Dispute Resolution, the National Conference for Peacemaking and Conflict Resolution, the Academy of Family Mediators, the National Association of Community Mediation, and the National Association for Mediation in Education became some of the leading organizing bodies that sponsored annual or biannual conferences, trainings, and newsletters to keep members of this emerging field abreast of developments and concerns involving mediation (Kolb, 1994).

How-to books had developed across the spectrum of arenas of the field and the advice for practitioners and potential clients maintained a general consensus that the skills and processes involved in mediating were universal and applicable across all areas of social conflict. While doing little to contradict the notion that mediation was a universally applicable tool, there was also a growing literature which concentrated its advice and analyses for conflict intervention on specific arenas such as public policy or

family mediation (Carpenter and Kennedy, 1988; Girard, Rifkin, and Townley, 1985; Kolb, 1994).

While there had been differing goals fostered by those developing this field, it was not until it had begun to solidify and some roles for mediation were institutionalized in society that the field became more introspective and self-critical. Then, researchers and practitioners began to debate the differences in their approaches to mediation as well as express concerns over who would or should determine qualifications and standards for the field. After the rapid growth of this new field, it had become evident that there was a lack of consensus about what mediation was and what it could and should accomplish (Kolb, 1994). Therefore, as the field matured, the differing goals gained stronger followings and clearer distinctions within the literature; and it is those frameworks which help to delineate these differences in the scholarship and practice to which I will turn.

Ways of Viewing Mediation

A review of mediation literature turns up several predominant frameworks from which most authors write. What follows is an overview of these frames and a discussion of the set of shared principles which are present in the scholarship from each of these frameworks. In particular, I will explore the role that symmetry and neutrality play in each. As was demonstrated in the historical overview of the field, the goals of those promoting mediation have been diverse: increasing the efficient administration of overcrowded courts (Goldberg, Greene, and Sander, 1985; Burger, 1982); offering opportunities for self-determination and mutual problem-solving (Welsh, 2001); transforming individuals into more morally developed human beings (Bush and Folger,

1994); using its “magic” (Davis, 1989, p. 23) to aid in the healing of communities and relationships (Girard, Rifkin, and Townley, 1985; Shonholtz, 1984).

And yet, despite the multiple goals and objectives and their accompanying techniques espoused by the many who have joined the field in the past thirty years, there are a unifying set of beliefs which tie together these seemingly disparate visions for mediation into an emerging profession and field of study. Mediation is seen as a useful process for the intervention into and management of conflicts—the real or perceived competition or clashing of needs, rights, interests, or desires (Deutsch, 1973; Follett in Davis, 1989; Rubin, Pruitt, and Kim, 1994). Mediation typically is viewed as a process which involves the use of a third party, someone not considered to be a participant in the dispute and who will facilitate the communication and resolution of the conflict (Boulle and Teh, 2000). The literature, then, describes mediators as “neutral third parties,” those who are unbiased, impartial, or disinterested in the content discussed and agreed upon outcome. Instead, their interest is expected to be in the process; to ensure that it is fair and that parties to the dispute act as the decision-makers in the final analysis.

This last point describes a fundamental difference between mediation and most other methods of dispute management and resolution in the United States. Mediators are described as conflict resolvers who do not render decisions, make findings, carry out punishments, or pass judgements to determine a resolution (Goldberg, Greene and Sander, 1985). In mediation, the disputing participants are the final decision makers on any agreements reached. It is common to find in the literature, as well as in mediation training manuals, a description of the goal of mediated agreements: to be mutually acceptable to the parties to the dispute; hence the now popular phrase associated with

mediation—that it is a “win/win” process (Boulle and Teh, 2000). And many scholars and practitioners attribute the win/win nature of mediation—that which causes it to stand apart from other conflict resolution forums—to a voluntary and fair process (Kolb, 1994).

A fair process typically is seen as being the result of two factors: a neutral and a symmetrical intervention. It refers to the meeting of an expectation that each participant is treated in the same manner; and this is directly tied to the previous idea of neutrality and it is demonstrated by the mediator not favoring one side over another in the way he or she manages the process. This expectation of procedural fairness demonstrates the significant value placed on symmetry (Rouhana and Korper, 1996) and neutrality (Rifkin, Millen, and Cobb, 1991)²⁴. Therefore, the connection between symmetry and neutrality is central to mediation practice and ideology; and, in fact, one could argue that they are the cornerstones of mediation in the United States.

It from the starting point of these shared underlying values of neutrality and symmetry, I argue, that the literature of the mediation field does demonstrate differing opinions concerning the goals for mediation and ways they ought to be manifested in practice. I have organized this literature into three major theoretical frameworks and I provide descriptions of the way these frames are applied to mediation practice. Within each of the frameworks, I discuss the most salient underlying assumptions, values, and goals. And more specifically, I examine how the concept of social stratification is approached within each of the frameworks and their general applications. Following the

²⁴Rifkin, Millen, and Cobb (1991) provide substantial insight into the complex demands placed on mediators to maintain distance from the participants in order to appear neutral. See their work, “Practice and Paradox: Deconstructing Neutrality in Mediation,” *Journal of Law and Social Inquiry*, 16(1), 35–65.

presentation of these three frameworks I describe the critiques which have been leveled against them, arguing that there is a shared lens used by critics. I present an overview of the critical literature, specifically with regards to the issue of social stratification, which has emerged from scholars located both inside and outside the field.

Four Frameworks

Approaches to mediation in the U.S. can be described according to three frameworks,²⁵ I articulate them as Agreement Building Mediation, Community Empowerment Mediation, and Individual Empowerment Mediation.²⁶ The body of literature that is critical of mediation emanating, in particular, from critical legal studies, raises important questions about social stratification and the role of mediation society. Those coming from this critical perspective share a fourth framework which I refer to as Mediation as Disempowerment.²⁷

These four categories are like seine fishing nets, since they catch and hold our attention on the salient characteristics of a particular frame; while at the same time, they allow for fluidity of boundaries. A net moves with the waves, allowing water to flow through. Similarly, there are characteristics which are shared across frameworks—commitments of neutrality and symmetry, most importantly—this is represented by the symmetrical design of each of the nets.

²⁵These categories are substantially based on the outline of the field presented by Robert Baruch Bush and Joseph P. Folger (1994).

²⁶See Appendix I.

²⁷See Appendix I.

In fact, this symmetry treats each fish²⁸ as if they were the same as they enter the net: if they are smaller than the symmetrical holes than they can pass through—unseen or irrelevant, if not than they are caught. While many of us are quite invested in thinking about and articulating which nets we use and why, what we are trying to catch and why, we have not often thoroughly examined the fact that we are all promoting the use of nets with symmetrical holes. What other ways might there be, who loses out, and what is lost by using this method? As mentioned above, early in the mediation movement, we concentrated on what made mediation different than court, for example; and more recently we have begun to compare ourselves to each other, examining what our the differences in goals and styles of mediating. Yet, we still remain with our gaze upon the net: what makes our net different than the others and not what the shared technique of fishing for answers in this way says about all of our practices.

The summary of significant mediation literature which follows overviews each of the four frameworks, highlighting the differences in their nets, as well as the ways their nets are structured. And of course, in the end, my critique of each of these frameworks is that none of them begin with the premise that some of us are on land, others on sea, and for many of us, none of these nets can catch what we need to sustain us and our communities.

The framework promoting Agreement Building Mediation has driven most of the institutionalized programs, for example in courts, federal agencies, and schools. What distinguishes this framework is its primary interest in providing “speedy justice,” solving

²⁸Perhaps the fish could be a metaphor for participants, mediators, mediation programs, or issues brought to mediation, for example.

problems in ways each individual party to a dispute find satisfactory, and reducing violence and conflict which disrupt productivity and order—all attributes these institutions seek to further. The overarching goal of this framework is to assure the creation of agreements between disputants; and this frame is found in every arena of the mediation field such as family, environmental, public policy, school-based, and small claims mediation. In this framework, mediation is “an approach to conflict resolution in which an impartial third party intervenes in a dispute with the consent of the parties, to aid and assist them in reaching a mutually satisfying settlement to issues in dispute” (Center for Dispute Resolution in Denver, cited by Folger and Taylor in Goldberg, Greene, and Sander, 1985, p. 116).

Those who use a Community Empowerment Mediation framework, while they may share an interest in a number of attributes of the Agreement Building frame such as the development of mutually satisfactory agreements, they are primarily concerned with cultivating community empowerment and democratic participation. These practitioners and scholars encourage community participation in the creation of local mediation programs, the acquisition of dispute resolution skills by community members, and the maintenance of responsibility/ability for handling disputes within a community. This frame has also received significant visibility in the field. It frames mediation, for example, as “a form of community empowerment and as a politics of respecting the authenticity of every person,” (Merry in Kolb, 1994, p. 276); and as a fundamental component of democracy and therefore vital to every community in the nation (Shonholtz, 1984; Susskind and Cruikshank, 1987).

The primary goal of those promoting Individual Empowerment Mediation is to provide disputants with the power to transform their interpersonal relationships and themselves. This is to be made possible through participation in the decision-making during a mediation session and through the humanization of other participant(s) which can occur as a result of the process (Bush and Folger, 1994; Cobb, 1994). Note that there are elements of both the Agreement Building frame and the Community Empowerment frame present in this framework, however, the concentration is on the growth of and exercise of agency by an individual and the potential for connection and healing between individuals within their relationships.

So, all three of these frames have values in common: increasing the participation of disputants in the conflict resolution process, an interest in mutuality, and a commitment to empowering people in a dispute—increasing their decision-making power. While these are shared values, the priorities assigned to them and the methods prescribed for achieving them differ among the frames as do, to some extent, the assumptions and worldviews represented by the frames. These differences are explored in depth in the section on each framework.

Critics of mediation have framed their concerns in a variety of ways; some disagreeing with the stated intention of one of these frameworks or the avenue by which promoters of mediation hope to accomplish their intentions. For example, some who function from the Mediation as Disempowerment framework argue that mediation undermines the empowerment—actual or potential—of individuals and communities. An analysis of structural imbalances of power ground the viewpoints of many of those from this frame of reference. From their standpoint, mediation either intentionally sets out to

disempower—a tool of a conscious oppressor—or is merely structured so that it inevitably is unsuccessful at empowerment; perhaps inadvertently designed to undermine the rights of the disenfranchised and oppressed. Still others focus their criticism on the Agreement Building frame, in particular, arguing that the mediation movement is unsuccessful at what they see as its attempts to reform the system of justice in the United States.

Agreement Building Mediation

The Agreement Building Framework has been the leading framework in the mediation field over the last thirty years (Bush and Folger, 1994). This approach is built on the assumption that people in conflict who need something from one another can benefit by mediating to resolve their differences. This interdependency is most often manifested in an on-going relationship such as those that occur between neighbors, family members, colleagues, and companies engaged in business together. The nature of the on-going relationship allows the conflicting parties to invest in a resolution which “produce[s] a wise agreement if agreement is possible. It should be efficient. And it should improve or at least not damage the relationship between the parties” (Fisher and Ury, 1981, p. 4).

The proponents of this view of mediation see it as a forum organized around the development of agreements which each party will hopefully view as a “win” from their perspective. This reflects an interest in a symmetrical outcome for the participants. In this approach to mediation, the amount of involvement and the control the parties have over the mediation process falls on a continuum where, at one end, the parties define their needs and interests and with the assistance of the mediator negotiate a mutually

satisfactory resolution, while at the other end of the continuum, mediators gather information from the parties, define the parties' needs, and propose resolutions from which the parties select a satisfactory outcome which then is agreed upon mutually. Although the extent of party participation in the process and in the development of an outcome is variable, the tenets of this approach do not waiver in their requirement that the parties are the final decision-makers and that the overarching goal is an agreement.

Again, the authors who are perhaps the most famous for their articulation of this approach state its benefits: "Everyone wants to participate in decisions that affect them; fewer and fewer people will accept decisions dictated by someone else" (Fisher and Ury, 1981, p. xi). Chief Justice Warren Burger, speaking in support of this approach and the promotion of mediation, said that "ordinary people" would rather use mediation than use "black-robed judges, well-dressed lawyers, and fine paneled courtrooms" (cited in Auerbach, 1983, p. 124). Regardless of how participatory the process for developing an agreement is, "the goal of negotiation and mediation is a settlement that is seen as fair and equitable by all parties" (Folger and Taylor cited in Goldberg, Greene, and Sander, 1985, p. 120). Participant involvement in decision making and a desire for a symmetrical outcome for the parties to the dispute are central to this framework.

In this approach, the lack of an agreement at the close of a mediation case is typically seen as a failure. This may be deemed as resulting from a poor job mediating or, more often perhaps, caused by a party's failure to use the process to their own advantage or determining in the end that his or her options outside of mediation were more inviting. There may be acknowledgment that movement from extreme positions has occurred or increased understanding took place which could influence possible future negotiations;

however, despite this, the mediation will overall be seen as having been unsuccessful because the goal of a mutual agreement was not reached.

Other underlying assumptions include the belief that conflict is most often seen as negative, inevitable, and that it needs reduction or elimination; that humans are self-serving and capable of successful negotiation (Fisher and Ury, 1981); and that mutually satisfactory resolutions to difficult conflicts are possible and desirable (Burger, 1982). Early conflict resolution theorist Mary Parker Follett articulated well some of these views as well as challenged the field to think more broadly:

“As conflict—difference—is here in the world, as we cannot avoid it, we should, I think, use it. Instead of condemning it, we should set it to work for us. Why not? What does the mechanical engineer do with friction? Of course his chief job is to eliminate friction, but it is true that he also capitalizes friction. The transmission of power by belts depends on friction between the belt and the pulley. All polishing is done by friction. The music of the violin we get by friction. We talk of the friction of mind on mind as a good thing, we have to know when to try to eliminate friction and when to try to capitalize it, when to see what work we can make it do” (Follett cited in Davis, 1989, p. 224).

Follett helped to set the course of the Agreement Building frame with her writings. Her work on integration was perhaps most significant in this regard. She wrote of three possible approaches to dealing with conflict: dominance, compromise and integration, stating that dominance is easiest and unfortunately quite common; that compromise is how we often believe we must manage dispute resolution if we are adverse to using domination/competition; but compromise results in each party losing something in the outcome that they needed or desired. Follett describes a process she termed integration, another alternative to domination and one that results in all parties to a conflict having their desires met. To break down the components of a dispute into separate parts makes it possible, she explains, to determine exactly where there is conflict

and precisely over what. Then, she coaxes, the job is to use creativity and cooperation to broaden the options for meeting the needs of the parties. When it is determined precisely what is desired we often find that what was first demanded or asked for in a conflict was merely a symbol of what is the real need or desire. And therefore, moving beyond symbols, we can find creative possible solutions.

Follett, who wrote and worked as a business consultant in the early part of the twentieth century in both the U.S. and England, contributed significantly to the field of mediation. Despite the fact that her name was not often associated with her ideas from after her death until recently,²⁹ her approach to conflict resolution through the process of integration provide the foundation for the practice many use in the field today. For example, her ideas appear in the seminal work of Roger Fisher and William Ury from the Harvard Program on Negotiation. Their book, *Getting to Yes: Negotiation Agreement Without Giving In* (1981), has often been referred to among practitioners as the “bible” of the conflict resolution field.

Fisher and Ury’s explanation of the ways and reasons to negotiate epitomize and have led the way for the Agreement Building Framework. Their techniques for intervention are reflective of the fundamental assumptions and values which support this framework and can be found in the literature and training manuals used throughout the field. They describe the process of negotiation that mediators subscribing to the Agreement Building approach assist participants to engage in and they lean heavily on

²⁹In the 1990's, renown mediation expert Albie Davis, Director of the Mediation Services of the Trial Court of the Commonwealth of Massachusetts, resurrected knowledge of the ownership of Follett’s works by helping to make them visible through conference presentations and republication of her ideas.

the specifics of Follett's process of integration. Fisher and Ury list a specific procedure to use for negotiating disputes:

1. separate the people from the problem
2. focus on interests not positions
3. invent options for mutual gain
4. insist on using objective criteria
5. develop your BATNA—Best Alternative to a Negotiated Agreement if the other disputants are more powerful (Fisher and Ury, 1981).

The Agreement Building frame, articulated particularly effectively through the well-known works of Fisher and Ury (1981), demonstrate the embedded beliefs which underlie a commitments to neutrality and agreement building. If we take our examination to each of their recommended steps, this will bear out. For example, in the first step, separating the people from the problem, they speak of acknowledging that emotions are tied to conflicts and to get to the substance of the dispute it is most helpful to separate the emotions from it so that the disputants can focus on the substance of their disagreement, and making it easier to discuss possible outcomes. This reflects a particular cultural view that imagines that it is possible to separate relationships from the substance of conflicts. This objectivist approach resonates with the belief that a mediator, as well, can separate herself from the substance of a dispute, therefore reinforcing the belief in the possibility and value of neutrality to this process.

If we examine Fisher and Ury's (1981) description of an effective process further, we see that the next step negotiating parties must complete is to see themselves as on the same side—"attacking the problem, not each other" (p. 11). To aid with this, negotiators and third party interveners are to work to improve communication, allow venting of

feelings and work to clear up misperceptions in order to set these aspects aside so that the disputants will be able to concentrate on the substance of the disagreement. This clearly demonstrates their belief in the ability of humans to successfully invest in a process to benefit themselves even if it means working with others who have caused them injury to create a mutually satisfactory outcome. In effect, it advocates that participants in a mediation will benefit most when they try to move to a place in which they can perceive the problem from a “neutral” perspective.

To focus on interests and not positions, Fisher and Ury’s (1981) third step, means that time and energy will not be wasted in stalemates due to positional bargaining. They describe the loss to both sides when people engage in negotiation by stating a position that they expect the other side to try to bargain them out of; this results in a competition to see which position will win and which will lose or a compromise between the positions which “is not likely to produce an agreement which will effectively take care of the human needs that led people to adopt those positions” (Fisher and Ury, 1981, p. 11). Their critique of positional bargaining mimics Follett’s concerns about domination and compromise as well as a belief that people are likely to compete once in conflict unless taught differently. And at the same time, it offers the promise that if people are taught to intervene in a conflict with a concern for using a neutral process of examining interests rather than attempting to persuade and dominate, then creative and mutual solutions are more likely to be found.

Their recommendation of focusing on interests and not positions also reflects Follett’s notions of breaking disputes down into their constituent parts. It demonstrates her idea of attempting to meet people’s needs and desires rather than focusing on the

symbols (positions) of their needs and desires. And, of great significance, it demonstrates the underlying importance of being able to reach a mutual agreement as efficiently and effectively as possible for all parties to a dispute.

Setting aside time to develop options for mutual gain (step four) takes the pressure off having to make separate decisions on each topic under discussion and refocuses all disputants on trying to reach mutually satisfactory resolutions—the ultimate purpose of the mediation. Therefore, before reaching agreement, time is spent on inventing options that would benefit all. In order to prevent a scenario in which the most stubborn disputant wins or the process breaks down, the next step in the process calls for all sides to agree to an objective standard—market value, a norm, a law, a particular expert's opinion—that will be used to determine a component of the agreement. The expectation is that if an agreement is possible it will be created because the parties have agreed to the process and they will make substantive agreement points based on fair principles and not emotion or the imposition of will (Fisher and Ury, 1981). This highlights the belief that humans are capable of creating outcomes for their mutual gain and that there is an objective reality—principles which parties will consider neutral to the situation and their relationship.

“Principled negotiation can be used by United States diplomats in arms control talks with the Society Union, by Wall Street lawyers representing Fortune 500 companies in anti-trust cases, and by couples in deciding everything from where to go for vacation to how to divide their property if they get divorced. Anyone can use this method. Every negotiation is different, but the basic elements do not change. Principled negotiation can be used whether there is one issue or several; two parties or many; whether there is a prescribed ritual, as in collective bargaining, or an impromptu free-for-all, as in talking with hijackers. The method applies whether the other side is more experienced or less, a hard bargainer or a friendly one. Principled negotiation is an all-purpose strategy. Unlike almost all other strategies, if the other side learns this one, it does not become more difficult

into use; it becomes easier. If they read this book, all the better” (Fisher and Ury, 1981, p. xiii).

Fisher and Ury recognize that parties may not get all that they want or need, however, the parties can make the decisions that would optimize the most gain for themselves in an agreement by participating in the negotiating process which occurs in mediation. And according to this approach, the culture of the participants, their identities and beliefs, the history of the relationship between them, and the topic of the dispute will not substantially influence the process or the outcome. This is framed as a universal approach which can help any party without regard to their place in this stratified society.

Mediators who utilize this approach are encouraged to see themselves as managing a process of negotiation that is not only universally applicable but is neutral—value-free, culture-free, and significantly free of context. Fisher and Ury as well as others who utilize the Agreement Building framework believe that the interests of the parties can be met by using what they call, objective criteria. They also recognize that sometimes there may be norms or principles, while not legal, which parties may use to reach an agreement (Folger and Taylor, and Riskin cited in Goldberg, Greene, and Sander, 1985). Such standards are not articulated as values which emanate from culture, identity, or worldview. Instead, the concentration remains on the utilization of a process and criteria viewed as neutral for the purposes of agreement development. This is to take place in a process which is seen as equally accessible to all participants.

Fisher and Ury’s contribution to the field has been formidable: those who share the many underlying assumptions of this framework have found in their work a clearly articulated process that is designed to allow for decision-making by the parties to maintain/improve relationships, create mutual agreements, and do all of this cheaper—in

time, money and effort—than through the courts. Fisher and Ury are cited, referred to and quoted in most books on the topic of mediation and at virtually every conflict resolution conference at which I presented or have attended since I joined the field in 1983. Their work became popular reading across the country and is found in bookstores on both the business and self-help shelves. Their 1981, 161 page, \$5.95 national bestseller paperback made a tremendous impact on the mediation field in this country and is still at the core of practice for those using the Agreement Building framework. It has a significant international following as well; for example, the Singapore Mediation Centre used trainers from the Harvard Program on Negotiation in the creation of their program based in this model.

This Agreement Building framework attracted a wide range of people: those from the legal field concerned with clearing congested court dockets, those interested in greater participation in problem-solving by disputants, others who felt that the state intruded in people's lives through the adjudication of small disputes which would be better off resolved by the parties, and concerned citizens who saw this as an alternative to the disintegration of society through increasing litigation and violence. This made for strange bedfellows as this approach to mediation was used by some to promote the development and institutionalization of mediation in courthouses while others urged its use for the development of private and/or volunteer-based mediation practices to limit the oversight and involvement of the state.³⁰

³⁰Such a following has included the National Home Improvement Council, chambers of commerce, J.C. Penney, the American Bar Association, the Office for Improvements in the Administration of Justice (OIAJ) in the Department of Justice, Chief Justice Warren Burger, the New Jersey Office of the Public Advocate, academics, and the

Another early and influential leader in development of the field, and an advocate of the frame under discussion was Harvard Professor Frank E. Sander. He was the architect of a new structure for mediation programs which caught the attention and funding from governmental sources and which helped to establish the use mediation in courts throughout the country. His proposed “multidoor courthouses” offered a variety of alternative dispute resolution options in addition to the justice system. This concept served as the foundation of Neighborhood Justice Centers which receive governmental funding and are often court connected mediation centers.

Sander’s approach to mediation further built upon the work of Follett, Fisher, and Ury and it helped to solidify the agreement building framework in the field. In his text, *Dispute Resolution* (1985), he and co-authors, Goldberg and Greene, articulated goals held by those from the Agreement Building frame. They wrote of what they saw as the general consensus in the field regarding the characteristics of an effective mechanism for resolving disputes: inexpensive, speedy, and leading to a final resolution of a dispute; as well as procedurally fair, efficient, and satisfying to the parties.

While Sander’s work remained focused on the same values described above as central to the agreement building framework, he did contribute in two important ways to the framework. His consideration of the role of mediation with regards to macro social structural inequities led to an articulation of the importance of symmetry in mediation.

In his book, *Dispute Resolution* (1985), he noted the concern that “mediation, with its emphasis on accommodation and compromise, will deter large-scale structural

National Institute of Law Enforcement and Criminal Justice (NILECJ) to name a few (Harrington, 1985).

changes in political and societal institutions that only court adjudication can accomplish, and it will thus serve the interests of the powerful against the disadvantaged” (p. 14). He was thus aware that the use of courts to protect individuals’ rights is important and therefore stated that mediation should be employed only when protection of these rights is not an issue. When that was not of concern, he and others supporting this frame, wrote in favor of mediating when there are no clear governing guidelines for resolving a dispute (which is a non-legal matter, for example), when the parties have an ongoing relationship, and when the court costs would be prohibitive, particularly if they would involve public funds (Goldberg, Greene, and Sander, 1985; Fuller cited in Goldberg, Greene, and Sander, 1985). Under such circumstances, mediation can help formulate agreements quite successfully since:

“mediation is not bound by the rules of procedure and substantive law. The ultimate authority in mediation belongs to the participants themselves, and they may fashion a unique solution that will work for them without being strictly governed by precedent or being unduly concerned with the precedent they may set for others, [and they may decide based on] their needs, interests, and whatever else they deem relevant” (Alison Taylor and Joseph Folger cited in Goldberg, Greene, and Sander, 1985, p. 97).

When power imbalance was present, however, Sander noted that for the mediation to continue, weaker party would need to threaten legal proceedings to gain enough strength to be viewed as an equal bargaining partner at the mediation table in order for the process to be useful to them. In these ways, Sander laid out the reasons for utilizing an agreement-oriented mediation process and also provided a response to some of the critics of the field concerned about rights protection and public investment in legal precedent.

Sander's comments demonstrate his belief that mediators could offer a fair process: but to do so there needed to be relatively equal bargaining power between the parties. This, in effect, implies an expectation that symmetry of power is accessible and that parties can use the threat of court proceedings to alter their power status in a mediation. This does not, however, account for differing identity-based statuses which cannot often be altered by such a threat. Symmetry, it is insinuated, is really the skeleton of a fair mediation process.

There are a variety of styles of mediating which fit under the Agreement framework; all of which share its focus on outcome.³¹ "The Labor Mediation Model," for example, is made up of a number of characteristics: professional mediators and experienced representatives negotiate on behalf of others; there are procedural traditions such as the mediator's use of separate caucuses with each of the parties; the entire process is agreement-driven; prior agreements and regulations that parties are bound by in their work lives often serve as a point of reference for developing agreement points; and there is a need for ratification of the agreement by larger bodies. In the "Therapeutic Mediation Model" mental health professionals often serve as mediators and despite the fact that it is often agreement-oriented, the focus also goes beyond work to eliminate the manifestations of conflict to an examination of the causes of it. Emotions are emphasized and an improved understanding by and of each participant is an additional goal. Mediation sessions tend to be longer when families are involved and the procedural

³¹"The Labor Mediation Model," "Therapeutic Mediation Model," and "Lawyer Mediation Model" to be described are outlined by Folger and Taylor cited in Goldberg, Greene, and Sander, 1985.

traditions involve both separate caucuses and joint meetings with all the parties. In addition, like in labor mediations, meeting multiple times is common. This model demonstrates the fluidity of the frameworks, since the focus is on individual understanding and empowerment as well as agreement building.

The “Lawyer Mediation Model” utilizes attorney-mediators and the entire focus is on the manifestations of the dispute. Emphasis is placed on the legal parameters, the resolution options and possible court decisions if the dispute is not resolved through mediation. The lawyer-mediator is the educator in these respects and may draft a proposed settlement and discuss legal enforcement of it; the participants often review the document with their individual attorneys before signing onto the agreement. This approach is clearly agreement-driven.

Folger and Taylor (1985) point out that in any of these forms of mediation it is possible for a mediator to act in a manner that supports the self-determination of the parties or to be highly directive, telling parties what they should or should not do. Therefore, it is clear that those who utilize a more active mediator role in the service of agreement building believe that the mediator can and should use his power to influence not only the procedure but also the outcome. The other side of this is the belief that those mediators who choose not to be highly directive are capable of not influencing the process and outcome; in effect, mediators are capable of being neutral.

To conclude, then, agreement-oriented mediators share a number assumptions and strategies that are found throughout the literature with regard to mediating in the name of agreement development:

1. mediators are capable of and responsible for being neutral

2. participants, not mediators, are to be the final decision-makers
3. mediators are to reframe concerns in a way that highlights the positive statements and the similarities between the viewpoints presented by each party in order to facilitate the likelihood of reaching an agreement (Stulberg cited in Goldberg, Greene, and Sander, 1985)
4. mediators can be the ones to decide if zones of agreements exist since they are privy to confidential communication on all sides of a dispute and therefore can and should urge reasonable compromises and creativity, help parties clarify their options and deflate their unreasonable claims,³² and articulate rationales for agreements to those not at the mediation table in order to help parties save face and gain acceptance for their agreements publicly (Raiffa cited in Goldberg, Greene, and Sander, 1985; Carpenter and Kennedy, 1988; Singer, 1990).

All of these strategies and beliefs work in support of a process which is viewed as universally applicable while responding to the particular circumstances of each participant. This is not seen as contradictory but rather as the strength of mediation—that it can offer and accomplish some much for so many. So, whether the case involves a separating couple with children, a multinational corporation buying out a smaller entity, or an environmental non-profit in dispute with a lumber company and a state agency, all interveners are to be able to utilize the same approach capable of meeting the needs of the parties—which is framed ultimately as the need to reach an agreement (Carpenter and Kennedy, 1988; Fisher and Ury, 1981; Fuller and Stulberg cited in Goldberg, Greene, and

³²This view is articulated well by Josh Stulberg who writes, “the objective of negotiation and mediation is to have parties agree to do something,” and so therefore, if a party is continuing to hold on to what the mediator determines to be unrealistic views of what they can accomplish, then it is “the mediator’s role at that time to force the proposing party to reassess the degree of power that it perceives it possesses” (cited in Goldberg, Greene, and Sander, 1985, pp. 95-96). Patrick Phear, a well-known divorce mediator, describes a similar view when he points out that when he has difficult clients (those who are not articulating their needs or are unwilling to build agreements easily), they “are encouraged, almost badgered, to acknowledge points of agreement even if they are cast in the most abstract, general terms” (cited in Kolb, 1994, p. 213).

Sander, 1985; Kolb, 1994; Phear cited in Kolb, 1994). In this way, this country's most prominent approach to mediating, the one that has had the most visibility and institutionalization (Bush and Folger, 1994), has been offered up as a neutral process, one that is acontextual, and that provides symmetrical opportunities to work out an agreement in any setting with any willing participants.

Community Empowerment Mediation

The Community Empowerment frame requires mediation processes and programs to seek ways for all interested and relevant parties coming to participate the mediation of a dispute, and this approach is, in this way, quite unlike the Agreement Building frame which instead is geared towards narrowing down the number of issues and parties in order to expedite a resolution. With a concentration on involvement and empowerment through participation, this framework carries with it its own set of values.

“Citizens in their civic capacity have a primary responsibility to manage conflicts at the family, school, and neighborhood levels. Failing to perform this civic justice function creates individual and community dependency on professional agencies and services. This form of dependency weakens the rights and responsibilities of citizens in a democratic society, thwarts the preventative capacity of residents to effectively de-escalate conflicts, and places an unreasonable and unmet burden on the formal justice system” (Shonholtz, 1984, p. 4).

This quote enunciates key values and assumptions held by those that promote the use of mediation to enhance the empowerment of communities and their citizens. They feel there is a capacity and responsibility within communities to manage and resolve disputes; that this is a foundational element of democracy (Harrington, 1985). This approach is about the “promises of empowerment, and potential for neighborhood connection” (Davis cited in Kolb, 1994, p. 261) and makes it possible for “ordinary

citizens [to] use negotiated consensus building both to secure their own interests and to advance the public good” (Susskind and Cruikshank, 1987, p. 13).

From this framework, professionals offering services and representatives of the justice system and other governmental institutions are viewed as separate from communities. Among those advocating a Community Empowerment approach to mediation there is some disagreement about the possibility for an positive interdependent relationship between citizens and society’s institutions. Some see conflict resolution as an opportunity to build consensus and for negotiation and mediation to involve an interplay between communities and more distant governmental entities. Others assume that any dependency on those outside a community is in and of itself negative, that it can be injurious to citizens’ rights. From either standpoint, the primary concentration in this framework is on citizen involvement in mediation: the relationship between citizens, their communities and the state, and (significantly) a concern for the inequities which affect such an involvement and how mediation programs ought to account for that.

Those who see the possibility for mediation to improve societal institutions believe there is the need to more actively engage but not to rely on them at present; rather there should be attempts to re-create them in response to citizens’ needs (Dukes, 2001; Dukes, 1993; Forester, 1999; Susskind and Cruikshank, 1987). Those who mistrust society’s institutions to respond to the needs of communities point out that courts and professionals can be so disconnected from our realities on a local neighborhood level that utilizing them can lead to disempowerment, stigmatization, and punishment for individuals and community groups (Shonholtz, 1984).

“Self-governance activity [such as community mediation] is a reflection of the basic democratic faith in the capacity, ability, and integrity of people,” writes Raymond Shonholtz architect of the San Francisco Community Boards, one of the nation’s first neighborhood dispute resolution centers (1984, p. 28). Shonholtz articulates what many who come from this framework believe. However, while the theme of community mediation is citizen involvement, there is clearly a division about what the role of the state should be. Some see mediation programs within communities as a form of autonomy and protection from the disproportionate intrusion and control over the lives of people of color and poor Whites by the judicial system, for example (Boston Mediation Trainers and Consultants, 1983). While others see it as an opportunity for community involvement and voluntary participation in community life which also supports the improvement of the state’s institutions (Dukes, 1993). Still others agree that institutions can not be trusted but see practical reasons to maintain ties with state agencies (Boston Mediation Trainers and Consultants, 1983).

Early on in the development of the mediation field in the last thirty years, those articulating a Community Empowerment approach raised questions of social inequities. For example, Nancy Feeney, Kathleen Grant, Della Rice and Barbara Sullivan when they set up the Dorchester Urban Court Mediation Program in 1973. They choose to work with the courts to get referrals and to provide programmatic support. Wanting to see residents of their urban neighborhood, which was made up predominantly of people of color, work out their own disputes through mediation, they made use of every avenue to bring potential participants out of the court system and into their community program (Boston Mediation Trainers and Consultants, 1983). They promoted mediation as an

option available not only to the neighborhood in which they mediated but to be seen as a productive, pre-emptive option for police and court personnel to use for referring willing community members back into the community to receive mediation assistance from their volunteer neighbors. There was a practical relationship built with the understanding of the realities of the lives of the community members who often had to deal with law enforcement well before they had the opportunity to learn about the mediation program.

However, others such as Raymond Shonholtz disagreed with this way of handling the effects of social stratification on potential mediation participants. They, too, was concerned about racial and class-based discrimination in the courts; and this motivated Shonholtz, for example, to start the Community Boards of San Francisco in the early 1970's. But, the Community Boards, like many other neighborhood mediation centers, were designed to run on volunteer steam and to be entirely directed by and to only have referrals come from locals. He was concerned that court-connected mediation programs would merely act as extensions of the justice system and that referred participants would not truly be voluntarily attending mediation. Presenting an argument many critical race theorists and critical legal scholars offer for why mediation is not a success story, Shonholtz (1984) believed that this leads to state intrusion into noncriminal or civil conflicts in communities. Shonholtz argued that "the state makes no attempt to improve the ability or capacity of communities to manage their own conflicts through nonstate mechanisms" and therefore communities must attend to their own needs (1984, p. 11).

Therefore, the Community Boards, like many other programs, designed neighborhood mediation centers as places for neighbors to learn to mediate, do outreach to solicit referrals from fellow community members, train and run their own problem-

solving organizations, and even in one place—see how disputes are resolved during public mediations.³³ Here, neighbors were given a process in which they could identify their common values upon which to build consensus in the form of mediated agreements.

The previous two descriptions of approaches to Community Empowerment Mediation (as described in the examples of the Dorchester Program and the Community Boards) were based, then, on the premise that community members shared values with each other that they didn't share with those in governmental institutions. And more than that, they community members were likely to be at odds and oppressed by those who act as representatives of the court and the police, in particular. Therefore, by creating local community-run structures and processes, inequities would either be absent or could be more effectively managed.

A third approach to Community Empowerment Mediation was articulated by, among others, authors Susskind and Cruikshank (1987), Dukes (1993), and Lederach (1995). They argued for the importance of promoting community empowerment through mediation not only to improve the citizen's role in democracy, but also to “find ways of dealing with differences that will restore public confidence in government, and improve relationships among the various segments of our society” (Susskind and Cruikshank, 1987, p. 10). Therefore, the process was seen as a tool by which citizens could influence and change their own government and communities—shifting power relations to some

³³ San Francisco Community Boards espoused a belief early in the 1970's that local neighborhoods could “own” a conflict and therefore intervene in one as a community. In the end, while this particular strategy for carrying out the values promoted by a Community Empowerment approach was not highly popular or utilized for long, this early experiment is a good demonstration of the intentions of many of those from this framework.

extent. For them, “consensual approaches to the resolution of public disputes will increasingly offer an opportunity to demonstrate that democratic institutions can work effectively,” (1987, p. 247).

This requires a consideration of power imbalances and the need for collective action by those with less institutional power in order to effectively engage with those with more. It also, like the other approaches to Community Empowerment Mediation, demonstrates belief in humans as capable of both good and bad—seen as creatures functioning in groups—communities—able to resolve conflicts that inevitably occur and yet, also as people who, once they have access to institutional power, can perpetuate domination on others.

The approach to Community Empowerment Mediation about which Susskind and Cruikshank (1987) and Dukes (1993), in particular, have written is unique in its description of the relationship between neutrality, symmetry, and responsibility to community. The promoters of this type of mediating argue that mediator neutrality is still fundamental to their processes and practice; however, they not only raise issues of social inequities as they affect conflicts, but argue that they be accounted for by the mediation process. They offer intervention strategy suggestions which they hope will account these inequities while the mediator remains neutral. This balancing act is described in different ways by key figures and remains the center of some controversy in the field.

Susskind and Cruikshank (1987) insist on the fact that mediators are responsible for the fairness of the outcome and not only of the process; and therefore must ensure that the interests of those unable to participate in the mediation are taken into account. In this way, mediators are responsible for substantive and procedural justice—determined by

access to participation and the representation of one's views at the mediation table. This can even manifest in a mediator's responsibility for figuring out how best to present agreements to the public at the end of a closed mediation session in order account for how imbalances of power can affect each party's public image after a mediation. While they are not the only one in the field to discuss this issue as a concern, they were early vocal advocates for this view.

Frank Dukes (1993) of the University of Virginia also writes about the role that a mediator can play when considering and responding to concerns over social inequities as they manifest in power imbalances between the parties. He argues for an advocacy role for mediators who can spend time preparing participants before a mediation session, providing them with educational opportunities to learn skills and gain knowledge which can help them to be able to fully participate in a session.

However, since the mediator is still responsible for getting all parties to determine their interests and options, works to increase participation, and also allows parties to make their own decisions, these scholar-practitioners argue that neutrality is able to be maintained. In these ways, mediators are to be able to assist participants from a neutral stance while also trying to counteract the power imbalances that social stratification can impose. Accordingly, they believe that

“it is important that [mediators] be willing to accept some responsibility for the fairness, efficiency, wisdom and stability of the outcomes. This is not inconsistent with the concept of neutrality. While those who participate directly must ‘own’ the agreement, the neutral must also assure himself or herself that everything possible has been done to meet the concerns of those who chose not to participate directly as well the concerns of those who did” (Susskind and Cruikshank, 1987, p. 150).

Interestingly, they seem to be separating the need for symmetry from the notion of being neutral. For, the mediator is expected to provide additional support, opportunities and attention to the needs of the under-resourced or represented participant(s), which flies in the face of traditional views on symmetrical and therefore “fair” procedures. Yet, the fact that the goal of the mediator and the process is to ensure that all can be heard and can fully participate and make the final decisions themselves, then neutrality is seen as maintained.

Towards what, then, is the mediator neutral? It appears that this particular approach to community empowerment positions mediators to be neutral to the specific content of the outcome and to see equal access to participation not equal opportunity to participate as crucial. This represents the purposeful inclusion of concepts of social justice in order to respond to the injustices which these authors saw affecting participation in mediation by some members and segments of society. This approach suggests the importance of considering the differing experiences of those who are poor from those who are not, or those who experience environmental racism from those who do not; and then seeking to respond with strategies to provide the necessary access to full participation in a public policy mediation. In this way, then, this approach offers a truly unique view of neutrality for the field.³⁴

In examining the overall framework of Community Empowerment Mediation, we can see the interest in exploring how mediation can best involve the populace in solving disputes in their own communities and in making an impact on these communities—and,

³⁴Explored later in this study are the ideas of Rifkin, Millen, and Cobb (1991) which also exposes the field to alternative ways of looking at neutrality.

for some, on the institutions of society. One of the fundamental views shared by many who use this frame is an understanding that most people are not empowered by society's institutions. And there are some who seek to compensate for inequities, particularly due to racism and classism, which affect mediation participants. These attempts have centered on putting neighbors in control of the mediation programs and the broadening the role of mediators to expect them to assist under-resourced parties. While those advocating these stances articulate them as not in competition with the notions of neutrality, I will argue that, in effect, they are. I believe that a mediator actively seeking to include those who will be effected by the siting of a toxic waste dump is not an act of neutrality; and certainly offering an under-resourced party additional assistance in order to prepare for mediation is not a symmetrical intervention.

In the Community Empowerment framework it is clear that the notion of participation is key and it is directly equated with the ability to achieve fairness procedurally by ensuring each participant receives the necessary skills, air time, safety to express views, assistance in articulating needs and concerns, and access to decision making (Susskind and Cruikshank, 1987; Shonholtz, 1984; Rifkin, Millen, and Cobb, 1991). Such procedural fairness means to the promoters of Community Empowerment Mediation that the disputants had the ability to determine for themselves how to create a substantively fair agreement through a procedurally fair process (Tyler and Belliveau in Bunker and Rubin, 1995). It is this commitment to empowered participation in mediation which stands at the core of this framework. It is seen that symmetry can be forfeited in the name of increasing empowered participation and the process will still be viewed as neutral. And neutrality remains the foundation of a fair process and outcome.

Despite the innovations of the Community Empowerment framework and the ways in which it branches away from some of the values of the agreement building framework, I want to point out that there is much beyond the commitment to neutrality which the two share. The former still relies to a great extent on many of the intervention techniques which come from the latter framework. These strategies are oriented towards assisting in resolution development and include such procedures as the use of private and joint caucuses, ground rules, the design of written agreements, and the monitoring of air time (Susskind and Cruikshank, 1987).

Individual Empowerment Mediation

This framework for mediation is characterized by a focus on the individual. It has often been described solely in terms of intervention techniques for assisting individuals in the process of mediating but in 1994 it was articulated as an entire framework by authors Robert Baruch Bush and Joseph P. Folger. They believe that this approach elicits the transformative potential of mediation for individuals; something many others have also spoken of in the field (Folger and Taylor in Goldberg, Greene, and Sander, 1985; Kolb, 1994; Menkel-Meadow, 1995; Phear in Kolb, 1994).

In this approach, particularly as it has been written about by Bush and Folger (1994), describes humans as self-interested, yet, also capable of transcending their self-interest through the experience of empowerment and recognition of another and one's relations with another.³⁵ The use of mediation to transform individuals through an

³⁵ Bush and Folger (1994) differentiate between self-interest and an interest in relationship with others. This does not account for the many people, (most of whom appear based on research to be White women and people of color), to have as part of their self-interest a need to maintain connection in relationship. For further exploration of this

empowering experience is the fundamental goal for those coming from this perspective. While solving a problem or coming to an agreement which reduces a conflict between various parties is seen as positive and as part of the process of the transformation process for an individual, it is a related benefit and not the primary goal.

Humans are seen as fully capable of becoming self-empowered when given the opportunity, of being able to make choices that are in their best interest and of being able to learn from their experiences. “Mediation requires acceptance of certain assumptions about human nature and human beings,” writes Girard, Rifkin, and Townley (1985), “that there is a genuine desire to cooperate; that disputants know best how to resolve their own disputes; and that people can be trusted to negotiate in good faith” (p. 7). The resolution of a conflict is secondary to being given the chance to self-identify one’s concerns, needs, and options with the help of a mediator. Whether a mutually satisfactory agreement is developed by the conclusion of the mediation or not, if an individual has been able to accomplish (or at least improve their abilities in this regard) then the mediation has contributed to their empowerment and is therefore a success.

Individual empowerment is the *raison d’être* of this framework and Bush and Folger (1994) provide a useful definition: empowerment “achieved when disputing parties experience a strengthened awareness of their own self-worth and their own ability to deal with whatever difficulties they face, regardless of external constraints” (p. 84).

This view is clearly based on an individualistic approach to both problem-solving and

latter idea and related research see Gilligan, C. In a Different Voice: Psychological Theory and Women’s Development. Cambridge, Massachusetts: Harvard University Press, 1982 and Kittay, E. F., & Meyers, D.T. (Eds.). (1987). *Women and moral theory*. New Jersey: Rowman & Littlefield.

growth. Use of this frame of reference as a mediator can lead toward a predominant focus on assisting disputants to meet their own needs to the furthest extent possible. Bush and Folger argue that self-empowerment is only one piece of transformation and they argue that attention must also be played to improving one's understanding of others and this can lead to relationship transformation.

The ability of mediation to aid in the transformation of the consciousness and character of individuals is seen as contributing to the moral development of participants. This is held out as "the promise of mediation" (Bush and Folger, 1994). Something possible when mediation helps disputants accomplish more than just empowerment, when it also assists them in seeing the needs, concerns and experiences of the other participant(s). This, is referred to as recognition by Bush and Folger (1994) and is "achieved when, given some degree of empowerment, disputing parties experience an expanded willingness to acknowledge and be responsive to other parties' situations and common human qualities" (pp. 84–85). It is the combination of empowerment and recognition that leads to the humanization of participants by one another and the taking responsibility for oneself. The impact of this process is seen as capable of a ripple effect, resulting in improved relationships, communities and society.

While this is Bush and Folger's particular brand of what I have termed the Individual Empowerment framework, it is not the only one which has been articulated or followed in the field. Numerous practitioners, program directors, and other scholar-practitioners have written manuals, conducted research, and practiced with this as their guiding framework. The concentration on assisting an individual to be empowered in their decision-making is often used by using mediation in therapeutic settings, for

example (Meltsner, 1993). Many school-based and community-based programs, as well, have strong elements of this framework (Boston Mediation Trainers and Consultants, 1983; Cohen, 1990; Wing and Marden-Cruz, 1992). While they may also share values with the Agreement Building or Community Empowerment framework as well. This fact is a helpful reminder that categorizing in the field can be limiting and not fully accurate.

However, there are those writing from the Individual Empowerment frame who are highly critical of the Agreement Building framework, in particular, stating that mediators are often guiding the problem-solving and manipulating the parties to get them to discuss the issues that the mediators think are mediatable in order to reach an agreement. This, they argue, undermines what is most essential about the process: the disputants' individual empowerment, their abilities to truly recognize the needs of one another, and the taking of responsibility by each party for and participating in the decisions about the future.

The Individual Empowerment approach does address issues of power imbalances based on social stratification, and with the focus typical of this frame: as it can be dealt with on an individual level. Authors and practitioners from this perspective disagree with the critics of mediation who state that it can not help to create a just society. As mentioned above, they firmly believe that mediators who use transformative techniques will make it possible for parties to be more empowered and to create more caring and just relations in their lives as they employ recognition. Bush and Folger (1994), in particular, counter that it is the use of the Agreement Building framework specifically which often leads to mediated agreements that do not respond to the less powerful or the disadvantaged in a mediation and society. They note that mediators can perpetuate the

evils of inequality and oppression because, as all people, they carry oppressive biases with them and they can remain within this outlook, even unconsciously, as they press for an agreement.³⁶ They point out that since individual empowerment is available to all parties in a mediation when using this approach, that the mediation process can lead to the balancing of power between particular disputants. However, this is seen as a potential side effect and not the goal (Bush and Folger, 1994; Cloak, 1990). In effect, then, they see social stratification as something to be handled by each individual and as capable of being overcome one relationship at a time.

A concern for individual empowerment and transformation has several scholar-practitioners from this framework to offer critiques of neutrality (Bush and Folger, 1994 and Rifkin, Millen, and Cobb, 1991). They see it as not possible or necessary in the search for individual empowerment in mediation. Bush and Folger (1994) describe mediators as taking an active role in the process of transformation and therefore, as not neutral. Rifkin, Millen, and Cobb (1991) conducted extensive research on mediation and neutrality and their findings and analysis explain their view that mediators' participation in facilitating a mediation process make it impossible for them to achieve neutrality.³⁷ In effect, they argue that all who take part in an intervention such as mediation have an influence on both the substance and procedures—most often asymmetrically impacting the participants—and this impact does not reflect mediator neutrality.

³⁶Bush and Folger (1994) do not, however, examine how participants can carry similar biases and act them out in their decisions and relationships during mediation.

³⁷Their findings were groundbreaking in that they offered a researched based analysis of why and how neutrality was an unattainable goal for mediators. Their work will be further explored in the section on critiques of the field.

Many who espouse the Individual Empowerment framework utilize practices which are agreement-oriented. Those who share the goal of trying to reach an agreement while coming from the Individual Empowerment frame encourage the full expression and exploration of feelings, ideas, and options for each participant and to consider the ability to engage in designing a mutually acceptable agreement an empowering process (Boston Mediation Trainers and Consultants, 1983; Cohen, 1990; Wing and Marden-Cruz, 1992). Those who are solely concerned with assisting in personal and relationship transformation through individual empowerment promote some intervention strategies unique to this framework. These include inviting the participants to make all procedural decisions for the mediation (i.e.: whether there will be ground rules and if so which; whether there will be private caucuses and if so, when; and when to end the session). This particular approach to the Individual Empowerment framework was articulated for the field in its most popular fashion by Bush and Folger (1994) who advocate for using each moment during the mediation as an opportunity for parties' individual choice, empowerment, and recognition of another.

The Individual Empowerment approach demonstrates faith in human potential as it reflects a belief that if given the chance, people will chose to be empowered and to recognize the feelings and needs of others and that by doing this, it will lead them to make mutual choices which create more caring and just relationships. This framework reflects the assumption that humans are fundamentally good and that as individuals we can make significant differences (Bush and Folger, 1994; Girard, Rifkin, and Townley, 1985; Boston Mediation Trainers and Consultants, 1983). While there has not been as much written and researched from this framework by comparison with others, what has

been presented to the field has captured the interest of many and increasingly people are discussing the importance of mediation as a transformative tool for individual empowerment (Bush 2001; Bingham, 2000; Menkel-Meadow, 1995).

Disempowerment Mediation

The concerns of those writing from the Disempowerment framework are centered around social stratification and the ways in which mediation can undermine the participants in a conflict. In the majority of cases, critics are located outside of the mediation field and advocate the demise or limited use of mediation. Many are opposed to the informal nature of mediation since it is not concerned with the enforcement of legal rights. They are particularly vocal about what they see as a lack of protection for those with less power and for those against whom bias and discrimination could go unchecked in a confidential mediation session. There are also those who write from within the field who share some of these same critiques and lobby others; although they are usually offering them in the service of improving not stunting the use of this dispute resolution forum. The views of this latter group will be explored after this section.

There are two major themes which characterize critics writings from the disempowerment perspective from outside the field: one is the lack of legal protection offered to disputants (Auerbach, 1983; Grillo, 1991; Nader in Chew, 2001) the other is the extension through mediation of state power into the private sphere of disputants' lives (Abel, 1982; Harrington, 1985). The first speaks to the need for judicial reform and arguing that more state protection is needed for the underresourced and oppressed. The second suggests that the reach of government is already too extended into the lives of

most citizens; again with particular concern for those belonging to targeted and oppressed groups.

Those seeking further government protection for those who are oppressed and underprivileged advocate reform and increased use of the state-run adversarial system rather than mediation. They argue that the development of alternatives to courtroom justice, in multidoor courthouses for example, tend to be geared for and utilized by those with the least money and ability to attain outstanding representation to protect their legal interests (Fiss, 1984). Fiss' comments on this: mediation "accepts inequalities of wealth as an integral and legitimate component of the process, and [is unlike] a process like judgement, which knowingly struggles against those inequalities" (1984, p. 1978). This, many point out, can result in "second class justice" for the poor, who are disproportionately people of color (Auerbach, 1983).³⁸ By providing these alternatives to court, mediation and other forms of alternative dispute resolution (ADR) take the pressure off the legal profession and the state to reform the delivery of justice to all members of this society.

Advocates of the view that mediation is disempowering believe that if people are not aware that patterns of oppression continually occur in a community, for example, then the pressure and responsibility for community/citizen-motivated action will not mount to demand state change (Nader, 1980; Delgado et al, 1985). Therefore, another

³⁸In this regard, the critics warn that alternatives such as mediation: "may deflect energy from political organization by groups of people with common grievances; or discourage effective litigation strategies that could provide substantial benefits. They may, in the end, create a two-track justice system that dispenses informal 'justice' to poor people with 'small' claims and 'minor' disputes, who cannot afford legal services, and who are denied access to courts" (Auerbach, 1983, p. 144).

way in which mediation programs structurally undermine those already disempowered in this country is by privatizing disputes. For example, there can be a loss of the potential for public and collective action when individual tenants or consumers use mediation to seek remedies from those with more power—namely, landlords and businesses—who have not provided entire groups with the services for which they have paid (Nader, 1980).

The individuation of disputes through mediation can have serious ramifications, including: the lack of precedence-setting (Delgado et al, 1985; Himmelman cited in “Conflict, Change, Process,” 1991; Fiss, 1984; Rifkin, 1993); the lack of public protection (Nader, 1980); the lack of punishment and deterrence for committing crimes, injury, and acts of oppression (Delgado et al, 1985; Riger, 1991); and the lack of public pressure to create or demand social, legal, and institutional change (Fiss, 1984; Magnum cited in “Conflict, Change, Process,” 1991).

Abel (1982) represents the views of many critics when he writes that because mediation individuates disputes, supporting it implies that it is unnecessary to question the existing inequities within society—that each party can and must resolve things alone. Therefore, the isolated individual with a minimum of resources is denied opportunities for legal redress of his or her problems through mediation. This focus on the individual is reinforced by those structures which support mediation programs. For example, funding is most often contingent upon demonstrating that a high number of cases were handled, agreements were reached³⁹, and individual parties were satisfied; and is not based on the

³⁹ It has been argued that “subtle forms of coercive pressure are important elements in the building of sizeable [mediation] caseloads” (Cook cited in Auerbach, 1983, p. 103).

impact made on groups, communities, or social structures (Abel, 1982). Under these circumstances, critics have argued, it is “appropriate to inquire whose interests mediation serves and whether it promotes or retards the ends of justice” (Auerbach, 1983, p. 120).

According to its most serious detractors, the impact of mediation is not only to decrease participants’ access to power, but also to simultaneously increases the power of the state. Many argue that mediation has been utilized in ways which have institutionalized it as a branch of the government. For example, in some court annexed programs, once agreements are created by disputants they are subject to a variety of state-connected enforcement options such as making the agreements acceptable findings of the court, to be legally binding and enforceable by the state. And in mediation / arbitration (med/arb) cases, if the parties do not reach a mutually satisfactory resolution, the mediator/arbitrator renders a decision that could also be legally binding and enforceable, viewed as a contractual agreement. In Harrington’s (1985) research of the Kansas City Neighborhood Justice Center, mediator/arbitrators observed that the parties felt an incentive to reach the agreements themselves since otherwise their cases would be arbitrated. This is subtle state-sponsored coercion and not empowerment as Harrington (1985) frames it.⁴⁰

Research conducted by a number of authors who come from the Disempowerment frame consider the actual physical siting of mediation centers a sign of the purposeful

⁴⁰The Kansas City NJC acknowledged to Harrington during her research that the use of coercion in its practices could be attributed to the sanctioning capacity that exists within the relationships of disputants and the shadow cast by the state during mediation: that unresolved cases will go to binding arbitration and that agreements made will be upheld by Missouri State Law (Harrington, 1985).

design of the state to extend its power over the least powerful. Most centers have been sited in and for communities already underprivileged, disenfranchised, and oppressed—in the inner city, populated predominantly by people of color and by poor people of all backgrounds (Abel, 1982; Auerbach, 1983; Nader in Auerbach, 1983; Harrington, 1985). Why is it that it is the people within these communities who are being diverted from court; referred by the state—police, probation, and social workers—to mediation services funded by state agencies and annexed to courthouses? This, they argue, increases the state's reach and coercive power in the lives of already oppressed citizens (Abel, 1982).

To demonstrate the state's invasiveness on a programmatic level, Auerbach (1983) refers to the Dorchester, Massachusetts mediation program which was based out of the Dorchester Urban Court. Over a two year period only four referrals came from the community and the judge made the decisions about the diversion of cases from his court based on the needs of the judiciary, not the goals of the legal reformers and community organizers. This, despite the fact that they had built the mediation program hoping to develop a conflict resolution skill base and a sense of community in what they termed a racially divided neighborhood at that time (Dorchester Urban Court Mediation Program, 1983). Auerbach (1983) argued that this scene played out all over the country in programs where "the site selection process suggested that community fragmentation, not community cohesion, was the primary criterion [and that] with legal coercion permeating the mediation process, [and where] few neighbors brought their disputes to neighborhood justice centers" (p. 135).

According to mediation's critics, the result is that these programs have some of the worst features of the adversary system and none of its best: state legal controls in

urban neighborhoods which result in bringing private disputes under official scrutiny while at the same time not offering due process to the participants (Auerbach, 1983; Harrington, 1985). This further disempowers, as critic Richard Abel (1982) points out; since any alternative to the judicial system such as mediation is a safety valve which reinforces the legal system at times when the judiciary feels that too many rights are being protected, upholds the existing social order when leaders fear there is too much chaos, and extends the reach of the government. And the crux of the critique: such governmental reach—without the protection of the law—can exacerbate the inequality and imbalances of power that exist in society as opposed to redressing them.

And the overarching goal of this group of authors is to eliminate inequity in society. With this as a top concern, than mediation's lack of legal protection can do little but leave more vulnerable those already oppressed by state and societal institutions (Delgado and Stefancic, 2001). Therefore, they advocate the disuse of mediation and, instead, they promote legal reform to offer truly equal protection under the law in the hopes of remedying the structural and individual inequities in society (Abel and Nader in Auerbach, 1983; Auerbach, 1983; Delgado et al, 1985 Harrington, 1985).

These views have emerged, in most cases, from the writings of legal scholars who seek the elimination of structural inequities and individual discrimination through the imposition of a set of standards to be applied equally and universally (at least within this country). In other words, procedurally fair (read symmetrical) application of law is sought. This approach to social stratification seems to nullify the objective of searching for ways of reaching mutually acceptable agreements or creating opportunities for individual or community empowerment. In effect, these scholars imply that those options

are irrelevant—perhaps unattainable or merely secondary—without the protection of the law and of collective political and legal action. Fiss (1984) sums up much of the criticisms of those who see mediation in this light:

“To be against settlement [in mediation] is only to suggest that when the parties settle, society gets less than what appears, and for a price it does not know it is paying. Parties might settle while leaving justice undone. The settlement of a school suit might secure the peace, but not racial equality. To settle for something means to accept less than some ideal. But when one sees injustices that cry out for correction someone has to confront the betrayal of our deepest ideals and be prepared to turn the world upside down to bring those ideals to fruition” (pp. 1085–1087).

Mediation’s critics from outside the field have directly indicted the approaches espoused by those working and writing from all three mediation frameworks. To reach an agreement through a process which is more likely to undermine those with the least power is not an achievement, is not empowering to individuals or to communities. While there is little specified attention paid to the issue of neutrality, there are substantial questions raised as to how mediation could offer a fair process given the lack of public scrutiny and lack of legal protections. Without the guarantee that mediators will be unbiased, how can the process be fair? Without the application of legal protections and the pursuit of legal rights and remedies, then how easily could imbalances of power be reinforced and acted out during a negotiation session in mediation? These concerns are at the heart of the Disempowerment frame and Laura Nader effectively sums them up when she writes, “unequal power does not enter the paradigm, and disputes about facts and legal rights are transformed into disputes about feelings and relationships” (in Chew, 2001).

Critiques From Within the Field

While there are many mediation enthusiasts promoting suggestions for research projects, ideas for moving from theory to practice, and new techniques to improve the quality of services offered by the field, this section will focus on those critiques centered on social inequities. There are mediation scholars and practitioners coming from each framework who challenge their colleagues concerned that mediation is not living up to its potential and is, in fact, disempowering at its worst.

Some of the fundamental criticisms include: the over emphasis or the sole concern with settlement and the attainment of an agreement; the resulting lack of individual empowerment; and the lack of attention paid to the impact of structural inequities and social group membership on the participants and process of mediating (Bush and Folger, 1994; Cooper, 2001; Davis in Kolb, 1994; Dukes, 1993; Grillo, 1991; Rifkin, Millen, and Cobb, 1991).

The disproportionate focus on reaching an agreement occurs, critics argue, at the expense of individual empowerment particularly when mediators manipulate to get agreements and under the circumstances of mandatory mediation.⁴¹ Trina Grillo (1991) raises significant concerns in this regard, arguing that whether or not an acceptable agreement is reached by the close of a mandatory mediation, the process is harmful if it

“imposes a rigid orthodoxy as to how they [disputants] should speak, make decisions, and be. This orthodoxy is imposed through subtle and not-so-subtle messages about appropriate conduct and about what may be said in mediation” (Grillo, 1991, p. 1550).

⁴¹ While not pursued to a great extent by this group of critics from inside the field, this does introduce the concerns associated with mediation being used as an extension of the state.

Such manipulation and pressure by mediators is built into the structure of mandatory mediation and the regular interventions of many practitioners (Phear in Kolb, 1994). For example, in California all divorce cases involving child custody and visitation issues are diverted first to mediation for the purpose of developing an agreement that is in the best interests of the child/children in the family. According the law, the mediator is responsible for trying to see that this occurs (Grillo, 1991). As a result, Grillo's (1991) research uncovered patterns of practice grounded in tactics used to pressure parties into styles of conversing which the mediators felt were most conducive to the creation of agreements.

Grillo (1991) also points out that since many have successfully portrayed mediation as a more fair and humane forum of dispute resolution than the adversary system, particularly for women, that this has spurred "the growth of mandatory mediation of child custody disputes" (p. 1544). The use of mediators, in effect, as extensions of the court, has decreased individual empowerment and fabricates a sense of confidentiality and neutrality upon which unsuspecting participants rely. For example, Grillo's (1991) research findings demonstrated that in California, when parents in custody case fail to reach agreement in mediation, local courts have the option of requiring mediators to make recommendations to the judges regarding custody or visitation (Cal. civil code 4607(e), West Supp. 1990, cited in Grillo, 1991). This occurs despite the fact that written and verbal communication during mediation is considered confidential under California Civil Code 4607[c]. In these cases,

"a mediator meets with the parties and, having assured them of confidentiality, attempts to help them reach an agreement. Should they not reach an agreement, however, the mediator uses what happened in the mediation session to make a recommendation to the court. In some counties [it was] observed that the

recommendations of mediators are almost always accepted by the judge; indeed, some mediators disclose this fact in an effort to pressure the parties into reaching an agreement” (Grillo, 1991, p. 1555).

This structural arrangement undermines the individual empowerment process for parties in a session and can also have devastating results to parties emotionally and in terms of the material results in the final divorce settlement. However, beyond the individual level, research has demonstrated patterns in which groups are more vulnerable to losing rights, property, access to children, and feeling disempowered during these mandatory mediations: women of all backgrounds and women of color in particular (Grillo, 1991). Grillo (1991) argues that the expectations about the expression of emotions and modes of communicating in mediation are grounded in White Anglo Saxon Protestant and male culture. For example, mediators often require parties to refrain from raising their voices, gesturing dramatically, or expressing anger. Sometimes the penalties for engaging in these behaviors is a determination by a mediator that the woman involved is “too angry” to mediate at this time and the process is terminated by the mediator.

Grillo (1991) points out that for many women, asserting their anger is an important step in being able to initiate or finalize a relationship separation and not being allowed to express this or having it devalued is more than disempowering, it can be detrimental. Grillo (1991) found that it undermined women’s ability to articulate their needs and demands and many told her that going to mandatory mediation felt like being raped.⁴² So, while Grillo advocates the voluntary use of mediation, she argues that the concerns regarding mandatory mediation are so significant that

⁴²In another study conducted by Robert Emery and Melissa Wyer, it was revealed that women who had gone through mediation were much more likely to be depressed

“it is more, not less, disempowering than the adversary system—for it is then a process in which people are told they are being empowered, but in fact are being forced to acquiesce in their own oppression” (1991, p. 1610).

Grillo’s (1991) concerns about the lack of attention that mediators pay to inequities based on social group membership is echoed by others (Chesler, 1991; Cooper, 2001; Dukes, 1993; Forester, 1999; Rifkin, Millen, and Cobb, 1991). Dukes (1993) writes about the need to alter the practice of mediation with a focus on increasing access to participation, hoping to see more people engaging in community problem-solving about the conflicts that plague our society. He asks mediators to examine macrolevel social structures and inequities based on race, gender, and class and their effects on conflict development. A good use of mediation, he writes, would create “a direct challenge to these problems [and] would be aligned with a much larger ongoing movement within our society to reconstitute, where appropriate, and otherwise create, nurture, and sustain a life-affirming and democratic public domain” (1993, p. 48).

Dukes (1993; 2001) asks practitioners to consider how they can assist parties to have complete access to full negotiation; challenging mediators to explore the possibilities of offering asymmetrical services in cases in which participants have asymmetrical resources. He asks us to raise these questions of our theories and practices: Is this process accessible? Affordable? Does it protect people's rights? Are unrepresented interests safeguarded? Is the agreement just? Such an approach flies in the face of a reliance on neutrality and disengagement from concern about the substance of the discussions in mediation. It discards symmetry as a criteria for a fair process and replaces

than women who went through the courts in divorce cases. This study determined that this was a result of the temporary sense of vindication after winning in court (Grillo,

it with access to participation; something which acknowledges the influence on and connection between social structural inequities and mediation sessions.

Chesler (1991) demonstrates similar concerns about the lack of attention to inequities in society and asks: When do mediations replicate the privileges that some parties have had historically? Can mediation be provided in ways that increase the possibilities of achieving social justice? He challenges the field to examine why it is that mediators do not ask the parties questions about the relationship between their dispute and social structures. While most mediators respond to this by stating that they only discuss the topics which the parties raise, he says that this is not accurate since it is a typical intervention strategy to try to help parties explore their interests by raising questions not yet discussed. His debunking of the common responses leaves us with these unanswered questions.

The demographics of the field additionally concern Chesler (1991). The field is predominantly white and middle-class (Chesler, 1991; Pipkin and Rifkin, 1984) and he finds the

“demographic biases in the practice neither accidental nor trivial; they are part of this craft's politics, construction and operation, and perhaps its appeal. They tell us something about the culture, and therefore the tools and techniques practitioners may use, and raise questions about the implications of these tools for the cultures and politics of disadvantaged and oppressed peoples and communities” (1991, pp. 39–40).

For Chesler to argue that, perhaps, it is even part of the appeal of the field that it discriminates by its exclusion is an indictment that has yet to be responded to, let alone answered by proponents of mediation.

1991).

Yet, despite his searing critiques of the field and its practices, Chesler sees it as having played useful roles in reducing conflict and helping groups without much social power to be heard in the process. However, he has suggestions for how this might occur more frequently and consistently. He argues for the incorporation of the goals of social change, social justice, and non-oppressive/multicultural organizations and communities into the field's agenda.

One way this might manifest is in the techniques used. Chesler (1991) encourages the use of what he refers to as First Party aides/allies/interveners. These individuals could mediate/intervene in disputes on behalf of a party or issue when fighting oppression is at stake. He challenges us to research the relationships and transitions between the roles of a third party mediator and a first party mediator or intervener. He points out that perhaps the most effective mediators/interveners work in a team. After working together to learn how to be effective as a unit, a diverse team can provide a model of collaboration for parties in conflict.

These suggestions by Chesler expand the mediator role and, like the work of Dukes, are not centered on neutrality or symmetry. Beth Roy (2000) also speaks of party replacement, encouraging mediators to take up the responsibility for representing the concerns of a party. The mediator can be an ally by providing voice and visibility to a person or an issue and this is especially important regarding social inequities (Roy, 2000). This approach is a variation on what Susskind and Cruikshank (1987) suggest for interveners in public policy conflicts. They advocate ensuring visibility and consideration of the interests of all who may be affected by a mediation. And this can require that the

interveners take an active role in the solicitation and representation of such parties or interests.

Access to full participation in the process appears to be a shared value of these critics. And there is an underlying concern in their writings for how mediation can or does perpetuate power imbalances based on social group memberships. The traditional reliance on the assumption that mediators can be unbiased are more than discarded; they are actively challenged as the views of next authors further articulate.

Researchers Rifkin, Millen, and Cobb (1991)⁴³ point out that the literature critical of mediation does so with regards to a macrolevel analysis of societal inequities, and that little has been written about how this can be manifested in and perpetuated by microlevel intervention techniques and the discourse within mediation. Justice is not merely a result of procedural guidelines employed symmetrically or a lack of demonstrated favoritism for a substantive point of view (an aspect of neutrality), point out Rifkin, Millen, and Cobb (1991). It is also a question of access to participation in the construction of conversations in mediation which result in reallife changes. This last point, while particularly focused on a communication perspective, resonates with the general interest in participation which has been expressed by other critics from within the field.

Inherent in Rifkin, Millen, and Cobb's (1991) research was a belief that mediation occurs in a socially constructed environment and therefore, the process and the actors involved could not be separated from the politics of the situation. For example, as people converse their realities are being reflexively mediated and constructed by the cultural and

⁴³Cobb and Rifkin (1991) and Cobb (1994) added depth to the critiques first offered in this joint work.

political lenses which they wear. Therefore, there is no possibility for neutrality to exist. Yet, the researchers recognized that the search for neutrality was core to the practice and mythology of mediation in this country (1991). Therefore, they sought to uncover what it was that mediators do when they helped to create conditions people described as representing neutrality. Out of this research project, Rifkin, Millen, and Cobb (1991) were also able to delineate a series of concepts to assist mediators in helping all participants effectively participate in the process—options to fight inequity as it can appear on the microlevel. I will briefly discuss details of this study of neutrality because their findings and analysis are foundational to the research conducted for my study.

Rifkin, Millen, and Cobb (1991)⁴⁴ studied mediator use of language, communication, and discursive practices in a number of mediation programs and concluded, similarly to what Bush and Folger (1994) and Winslade and Monk (2000) have later stated, that the construction and legitimation of stories that occurs in mediation is a political process to which mediators must attend. “Because meaning is never a property of the word but is constructed in use, in particular social contexts, as part of particular practices, the social construction and management of meaning is a political activity” (Cobb and Rifkin, 1991, p. 61).

They found that mediators would commonly frame the discussion around the story given by the first disputant to speak. As the mediation continued, discursive practices would privilege one story over another, legitimizing one speaker over another and reducing one of the party’s access to the ability to storytell. Without access to fully

⁴⁴Findings of this study have been presented in other articles including Cobb and Rifkin, 1991.

describe their experience, needs, concerns, options, and feelings, a disputant was not treated with neutrality and lost opportunities to influence the process of discussion and therefore the outcome of the mediation. In eighty percent of the cases studied, the second disputant simply refuted or denied the first disputant's story without ever telling their own story and legitimizing him/herself in the mediation (Cobb and Rifkin, 1991). The agreements are most often developed out of the semantic and moral grounds of the story which is dominant in the session and therefore the material results of the mediation reflect the marginalization that occurs in the discourse (Cobb and Rifkin, 1991).

As stated above, Cobb and Rifkin (1991) and Rifkin, Millen, and Cobb's (1991) research challenges the common notion that neutrality is not possible. Neutrality, according to these authors, is defined as the objective position from which one can participate in social relations free of affiliation to any particular position. Therefore, they challenge the belief that there is a state that mediators should strive for in which can be achieved, making it possible to mediate having no affiliation to any position or party.

While they interpret their findings to reveal that neutrality does not actually occur in mediation, they were also able to articulate what characteristics people use to define a mediator as neutral. These characteristics are impartiality and equidistance. By being impartial, supposedly, mediators are able to separate their own values, opinions, and psychological processes from the mediation session. Mediators are to attempt to not carry any bias which is seen as a negative psychological characteristic. But since mediators cannot regulate their unconscious state which may carry biases, this appears impossible to accomplish, these authors argue.

In addition, mediators are taught to attempt to be equidistant in their relations with disputants, (what Rouhana and Korper (1996) have called striving for symmetry). Yet, mediators are also taught to try to balance power in their relational interventions in order to try to prevent disputants from coercing one another. In the Agreement Building frame this may occur as part of an effort to encourage movement towards settlement; and in an Individual Empowerment frame, this might manifest in a mediator's attempt to get a party to understand and appreciate another party's experience in order to encourage recognition. To accomplish this in practice, mediators need to connect with one participant at particular moments or seem to work on their behalf for a time. This can appear as bias and yet it is seen as being positive under specific circumstances: "neutrality is the active process by which bias is used to create symmetry!" (Cobb and Rifkin, 1991, p. 44). Therefore, mediators are taught to both avoid bias and to use it; to remain equally distant and to connect with individual parties.

These contradictory roles for bias within a mediation and the conflicting roles mediators actually practice result in a paradox and mediators are not taught methods for reconciling this dilemma. Cobb and Rifkin (1991) found that the mediators they studied saw that their role was to act/be detached in theory but to be proactive in balancing the power in practice. Therefore, the authors concluded that "neutrality as a discursive practice actually functions to obscure the workings of power in mediation, and forces mediators to deny their role in the construction and transformations of conflicts" (1991, p. 41). This highlights the paradox inherent in all mediation practice in which mediators are to be viewed as neutral interveners.

It is the research findings of Rifkin, Millen, and Cobb (1991) which articulate the causes of the lack of neutrality and the failure of mediation to provide the necessary and complete access to participation in the discourse of a session. On a microlevel, by mediators using the techniques typical to the field—asking questions, summarizing what is said and guiding parties to focus on a particular set of issues, a logic, or a storyline to create understanding and assist with negotiating—mediators end up narrowing the focus and legitimating one view over another. This constrains the development of certain stories and favors others. This results in the positive framing of one party at the expense of another; and so, despite the fact that they are attempting to create a win/win solution or to help empower each person, the dynamics of the mediation can result in the maintenance of an adversarial and disempowering context (Rifkin, Millen, and Cobb, 1991).

Rifkin, Millen, and Cobb (1991) present a new way to frame what mediators can do when they assist parties in telling their stories in mediation and creating future ones—(those which are mutual being referred to as agreements). These practitioner-scholars frame this practice as multipartiality: being partial to all parties in a mediation, working to support their ability to fully partake in the process of storytelling. By seeing mediation as a forum in which stories are told and meanings negotiated about both the past and the future and by seeing the entire process as inherently political, they offer a way out of the fixation on and paradox of neutrality. In addition, there becomes no need to concentrate on symmetrical intervention strategies. A multipartial approach requires mediators to attend to the discursive needs of each party and assisting to create space for and connection with their story.

This is an entire new way of viewing mediation since interveners have not been trained to focus on the discursive relationship between the parties or the narrative process. And this lack of attention to narrative interactions, the authors argue, leads to dominance being created and/or re-enacted within a session (Rifkin, Millen, and Cobb, 1991). They warn that because the present understanding of mediation is as a negotiation process in which mediators attempt to be neutral and it is not understood as a political process which has no room for a concept like neutrality, that the true nature of the process is obscured and therefore, it has not been part of the dialogue in the field.

Returning to the metaphor first introduced at the beginning of this chapter, in effect, Rifkin, Millen, and Cobb (1991) raise the point that while the different frameworks attempt to focus on the best way to catch fish, so-to-speak, they do not see that all their nets are strung with the same material. And this material—neutrality and symmetry—perpetuate social stratification at the least and often exacerbate it in both the process and outcome. Therefore, Rifkin, Millen, and Cobb (1991) conclude that mediation needs to be reframed as a discursive practice. This process is one in which mediators help people articulate their stories, intervene in the interaction between people's stories, and assist in the construction of alternative stories about the future and sometimes even the past. From this perspective, mediators need to help make it possible for all participants in a mediation to tell their stories in ways that do not delegitimize or marginalize themselves.⁴⁵

⁴⁵ Such a description of the mediator's role seems to fit under the Individual Empowerment framework since it argues that mediators' concerns should be with the management of a process in which individual disputants will be empowered in their storytelling which is what will lead them to articulate, clarify, and make choices.

The work on understanding neutrality accomplished by Janet Rifkin, Jonathan Millen, and Sara Cobb (1991) is an internal challenge to the foundation of the field. They took the central tenant of practice—neutrality—and revealed how inaccurate and destructive a search for it can be. Their research demonstrated how inequities in relationships can be replicated through discursive domination despite mediators' attempts to balance power. This research challenges all of us in the field, despite the framework from which we work, to rethink and reconstruct a mediation practice and a vision of what we do. Rifkin, Millen, and Cobb's (1991) work makes it possible for us to imagine a practice in which mediation can be empowering for participants while not replicating inequity or exclusion in its process.

Conclusion

Mediation has held different roles in U.S. society over the last thirty years as it rapidly grew into a nationally recognized and highly utilized forum for conflict intervention. The three frameworks promoting its use provide an organized way of understanding the various goals, roles and values that theorists and practitioners have advocated for mediation. The visibility and institutional support for the Agreement Building frame is not surprising for several reasons. It provides support for some of those institutions which helped the field grow and which have directly benefitted from its expansion. It supports aspects of the national dominant culture such as the consumptive approach to negotiating in order to get what one wants—which is also reflective of the country's economic system—and it promotes taking responsibility for oneself by being individualistic in bargaining. Agreement Building Mediation also reduces conflict in

towns and cities all over the country which is a major concern during these times of increasing violence.

This approach to mediation clearly captured the imagination of the average citizen who now views it as a viable tool to help individuals and groups negotiate differences and maintain relationships through the creation of mutually acceptable agreements. I find this worthy of much praise but also of concern. Having a primary focus on agreement development may be practical for the many needs of people, however, the focus on this end has all but overwhelmed other approaches to mediating for a long time. While this has started to change, those who are attracted to this framework still run the risk of engaging in a process which does not account for the social inequities which exist in society.

The Community Empowerment framework has offered innovation in community development by expecting community members to care for and be responsive to one another and by offering forums to learn conflict resolution skills to help make this happen. I have been inspired by the focus on local involvement in disputes within neighborhoods, the training of volunteers to mediate and the training of students in schools. The cultivation of a perspective which asks community members to move away from their non-trusting stances in our all-too-isolating society towards being involved and caring citizens is very compelling and was, in fact, instrumental in bringing me into the mediation movement.

I have also been inspired by the commitment to using mediation to increase participation in consensus building within communities and viewing that as a fundamental aspect of caring and just communities. The role of the mediator as the

advocate for such an inclusive process is also an aspect of this approach that stands out for me. I share the views that many Community Empowerment Mediation proponents have that there are both community norms worthy of utilizing as context-specific standards for problem-solving among community members. But, since I believe that oppression and social injustice exist and that in most neighborhoods their elimination is not a shared goal, I am also in agreement with many who critique this framework; recognizing the importance of using institutional avenues—such as the courts—to demand change to promote social justice when community consensus building fails.

This framework has been plagued by an ambivalent relationship with the institutions of society. However, whether a program was purposefully designed to serve the needs of a court as well as the community members or whether a program ended up linked to institutions through referrals and funding sources, these ties have led to serious conditions of cooptation despite good intentions and admirable philosophies. Unfortunately, even though individual parties may receive useful or even empowering services at these centers, it is also the case that they are providing second class justice and that the mediators and program administrators do not reflect the demographics of the population their programs serve.

I am not of the opinion that this is the result of a conspiracy to oppress or undermine people, however, it is an unacceptable condition and it raises some important questions. If this style of conflict intervention were culturally relevant and helpful to people why wouldn't parties of all backgrounds use it? Why, then, would it need to be advertised? Why wouldn't people flock to participate on "either side of the table?" This framework's emphasis on community is its most attractive feature and I suggest that

those of us dedicated to many of the underlying values of this approach need to revisit whose visions of community we are using and who is not included and why.

The authors writing from the Individual Empowerment Framework offer some of the most useful, exciting, creative, and challenging approaches to the field. For example, the examination of the mediators' relationship with the parties—the discussions on neutrality, first party interveners, and multipartiality—raises new questions about the boundaries and expectations for practice. The emphasis on healing relationships, helping people become more empowered, and understanding others are all values I aspire to as a mediator.

However, there are also aspects of work done from this framework which reinforces a sole focus on the individual to the detriment of a social justice agenda. For example, the work of Bush and Folger (1994), while offering very important new insights into the possibilities of empowerment and recognition, also concerns me. Their approach focuses on the personal growth of individuals without a structural analysis of society or attention paid to community. This narrow goal of mediation can seem self-indulgent in a world in which people are hungry and violence is real; in which tenants are taken advantage of by landowners. In such circumstances, concentrating solely on providing opportunities for participants to become more morally mature and empowered enough to recognize each other's humanity as individuals, perhaps, should be secondary when one party does not have heat in their apartment.

An additional concern I have with most work emerging from this framework is the lack of attention paid to context and the networks of relationships of which parties are a part; with attention being paid, instead, to individualism. This is limiting and also

exclusionary to those whose worldviews reflect a view of self in relation to others. This is another example of ways in which this field appears to cater to particular cultural values; thereby privileging those from the dominant culture which sees the individual as the central unit in society.

For me, it is only when the reality of dominance and oppression—conflict tied to communities and networks—is recognized and accounted for that this framework seems to offer a useful vision of what mediation ought to be able to do in society. Just such an analysis is evident in the work of Rifkin, Millen, and Cobb (1991) and we need more research and practice in the field to follow in this vein.

The critics of the field, both from inside and outside of it, have much to contribute to its fine-tuning. In particular, beyond the criticisms I have already echoed, I will point out several other critiques which I find compelling. Specifically, I agree with concerns Harrington (1985) and Grillo (1991) raised regarding the extension of state control and the cooptation of mediation for the state's interests. The courts' use of mediation, particularly when it is mandatory, can have grave consequences. The damage to empowerment, the manipulation of parties to reach agreements which are in line with the philosophy of a mediators' or a judge, and the coercion involved in achieving participation even in voluntary programs outweighs the many success stories of time and money saved. Here again, it is crucial that this field examine the oppression dynamics involved in where these programs are sited, who is utilizing them, and how mediation can be (unconsciously) utilized to violate peoples' needs and rights: to due process, to have their "day in court," to have their conflict escalate so that a community responds by

forcing reform and changes, and to have the opportunity to truly choose to participate in a conflict management and resolution process.

These concerns reflect the values I hold that mediation ought to offer a truly democratic process, without domination, but rather with access to full participation; for then there is the possibility for achieving empowerment, meeting needs, and creating caring communities and relationships without perpetuating oppression. Mediation has a role in society, however, we need to engage in vigorous reflection and continuous innovation of practice to search for ways to understand the limitations and possibilities of this tool/opportunity called mediation.

We also need to utilize the available research and learn from the real experiences of those affected by the mediation field. Too often practitioners and researchers are not connecting in ways that result in mutual learning and changes in the practices of the field (Dukes, 2001; Honeyman et al, 2001; Rifkin, 1994). And what is particularly striking about the field to me is the absence of participants' stories of their mediation experiences and the advice and requests which they have for practitioners. They are crucial to the discourse and plans for constructing a view of mediation's place in society.

Questions to be raised now include how can we determine where to go from here? Which aspects of what already exists should be left behind and which should be cultivated and retained from the rich history that each framework brought to life? What should we use to base our decisions on and who will be the decision-makers? It is my hope that across the field and within our communities we will work to figure out together our answers to these questions. Since people do come from various orientations this process is bound to prove challenging; there undoubtedly will be significant differences

in the expectations for mediation, but the process of engaging in this problem-solving endeavor is part of the outcome.

I hope that part of what will continue to be scrutinized is the role of neutrality and symmetry as foundational principles of mediation practice. Returning to the earlier metaphor, this field must re-examine what materials we are using to fish and what catch we are missing. There are weaknesses in our nets, due to the size and shape of the holes, their design and structure, and, as it clearly appears to many, due to the purposes for which we are casting them. We need to heed the call of critics to pay attention to who is not being fed by our processes.

The critiques already offered have already helped to raise important questions for the field in this regard. Where does a consideration of social stratification fit? What does it say about how and who organized the field that these concepts are its foundation? For whom it is likely to provide the most benefits? Is it actually possible to work symmetrically with participants who receive differing access to privileges and to their rights based on their social identities and have a process and outcome experienced by all as empowering, fair, equal, or just? Who should determine the answers to these questions?

I believe that practitioners and scholars in this field intend to serve all participants well by attempting to offer processes which provide fairness, equality, and an increase in democratic participation and which result in the meeting of needs and increasing of individual and/or community agency. An advocate for social justice, however, may look beyond intention, though, and ask who benefits and who does not from an intervention based on neutrality and symmetry? And mediators who are also social justice advocates

might ask, how can we fine-tune our practices to better serve all participants and seek to do so without perpetuating privilege for some.

An Overview of Racialization Theory

This final section provides a review of concepts from racialization theory which are relevant to this research project. In this case study, I used racialization theory to help frame the narrative upon which my study was focus. This was a theoretical lens with which I worked, in conjunction with the methodology presented in Chapter Three to inform how I defined the perimeters of the conversations on issues of racialization.

Racialization⁴⁶ is the process by which people are categorized according to racial groupings, and therefore, I will first discuss the concept of race. Race is now acknowledged by most to be a social construction and not a biological reality (Haney Lopez, 1996; Nieto, 1992; Omi, 1997; Todorov, 2000). Both racial self-identification and racial ascription given by others can and have changed over time and place. However, I join many scholars and activists in arguing that the category of race is today still a powerful and salient characteristic used for classifying individuals into groups. For, we must recognize

“the paradox of ‘race’ as a social construct and as something that has real, indeed monstrous, effects. For while ‘race’ might be a fiction, it is a fiction that informs and organizes the actions of people and the structures of power” (Rodriguez-Morazzani, 1998, p. 143).

So, categorizing self and others according to socially designed, albeit ambiguous and alterable constructs, is a reflection of the process of racialization. Racialization

⁴⁶While recognizing that categorization and discrimination related to gender, age, and other identities are interwoven and interconnected with racialization, for the purposes of this study the concentration is on racialization, in particular.

theorists refer to this process as it is used to negatively frame the non-dominant group: targets (Rodriguez-Morazzani, 1998; Small, 1999; Spickard and Burroughs, 2000; Torres, Miron, and Inda, 1999; Urciuoli, 1996). However, I argue that if we keep in mind that Whites are privileged by the negative racialization of those not deemed White, then we can also see that there is what I will call positive racialization. This is the framing of Whites as the center and the norm, resulting in their receiving benefits from such a construction.⁴⁷ Understanding the process and impact of both negative and positive racialization is a crucial aspect of social justice work.

With this in mind, I explored the literature and considered real life experiences to secure a list of markers which are commonly used to reflect negative racialization. I wanted to use them in my analysis of the mediation narrative to flag when discussion of negative racialization emerged. Despite the fact that there appear to be some fairly consistent tools which have been used over the past two hundred years to categorize persons racially, there are some important caveats to mention. Often, the markers used by an individual or group to self-identify racially have been different than the ones used by others to ascribe racial identity to this same person or group. There have been a variety of markers used for racializing different socially constructed groups; and, as previous stated, some markers have been altered over time and place (Haney Lopez, 1996). Those markers which have been used fairly consistently to racialize individuals and groups have included: skin color, hair texture, eye shape, facial features, and heritage (Haney Lopez,

⁴⁷To give just one example, from 1790 to 1952, naturalization in the U.S. was restricted to those deemed to be “White persons” (Haney Lopez, 1996).

1996; McLemore, Romo, and Baker, 2001; Saragoza, Juarez, Valenzuela, and Gonzalez, 1998; Todorov, 2000).

The history of the use of hypodescent as a way of setting boundaries for racializing groups in this country reflects the stratification of racial constructions designed to maintain the White racial category as the “center” and the “pure” race (Haney Lopez, 1996). This approach has racialized anyone who has even “one drop” of blood from someone not categorized as a White ancestor. To look at this clearly from another angle, Whites are a group of people whose racialized identity has been legally and culturally constructed as having only White ancestors (Haney Lopez, 1996).⁴⁸ This is still the framework used for the social construction of racialization within this society.

The continued centrality of White racial identity in this nation is demonstrated, for example, by the fact that all who are not deemed White, who are considered descendents of other races or of mixed racial heritage are referred to nowadays as people of color. This denotes the fact that there continues to be a racial hierarchy which places Whites at the top and in the center of society’s norms.

According to the above mentioned markers, Latino/as and Hispanics (the racialization of whom is particularly relevant to this study) are considered people of color on the United States mainland.⁴⁹ While at the same time, Latino/as and Hispanics include

⁴⁸While this has been the case, the interpretation of who was and is considered White has been inconsistently determined and applied by courts and the public over the course of U.S. history (Haney Lopez, 1996).

⁴⁹I want to note that I am not referring to the experiences of those who live in the U.S. held territories/colonies such as Puerto Rico, for example. For a further explanation of how Puerto Ricans are racialized differently in Puerto Rico than on the mainland, see the works of A. R. Oquendo, “Re-imagining the Latino/a Race” in Delgado and Stefancic

people who come from “all” socially constructed racialized groups. For example, there are Latino/as of African descent, European descent, Indian/Native American descent, Asian descent, and those who have Biracial and Multiracial heritages.

A Latina who is socially constructed and treated as White within her culture of origin, who self-ascribes as White, who is even categorized as a “White of Hispanic Origin” on the U.S. Census, is still considered a person of color and treated accordingly on the mainland in the United States (Rodriguez, 1996; Rodriguez-Morazzani, 1998). There is a “continued identification of Puerto Ricans as non-white, e.g., as ‘spics’ or as Black—in other words, the dark Other—by state ideological apparatuses and in the mass media” (Rodriguez-Morazzani, 1998, p. 143).

Such racialization is not only related to one’s perceived heritage based on skin color, a typical racialization marker. But, language-based and other non-visual racialization markers are also used to negatively racialize Puerto Ricans and other Latino/as. This

“has had economic, residential, social, and even political results. The real-life consequences of such classifications in the United States—regardless of appearance—were made explicit by one respondent in Oscar Lewis’ *La Vida*: ‘I’m, so white that they’ve even taken me for a Jew, but when they see my Spanish name, they back right off’ (1966:180–181)” (Rodriguez, 1996, p. 136, italics in the original).

In this way, on the mainland in the U.S., Latina/os can be negatively racialized as people of color and be treated as belonging to a target group based on a variety of

(Eds.), *The Latino/a Condition*, New York: New York University Press, 1998, pp. 60–71 and C. Rodriguez “Challenging Racial Hegemony: Puerto Ricans in the United States” in S. Gregory and R. Sanjek (Eds.), *Race*, New Brunswick, N.J.: Rutgers University Press, 1996. See P. Thomas, *Down These Mean Streets*, New York: Knopf, 1967 for an autobiographical examination of this experience.

markers. How do we make meaning of this? Clearly, the social construction of race, and therefore the racialization of individuals and groups is highly complex and inconsistent in many ways. Another example further demonstrates this. Given the use of language as one of the markers used to negatively racialize Latino/as, Anglophones, then, receive privilege. Since speaking Spanish as a first language or having that in one's heritage is a negative racialization marker than not having that as one's background provides one with privilege. Therefore, those who speak English as a first language and whose names are not associated with a Spanish speaking heritage receive linguistic privilege that is also tied to a positive racial construction—unless the Anglophone is negatively racialized as not White for other reasons. So, a White person who is also an Anglophone has racial privilege which is also tied to a linguistic privilege while an African American who is an Anglophone is considered to have only linguistic privilege. This demonstrates, again, the inconsistency of these socially constructed categories which benefit those who are at the top of the hierarchy: White Anglophones (Rodriguez-Morazzani, 1998).

Interestingly, if our analysis is informed by considering how it serves the interests of the privileged group than it becomes a bit easier to unpack. For example, in the larger narrative in society, the hypodescent rule has been applied to racialize a person as Native American/Indian when she has one ancestor who was Native American/Indian and all other ancestors who are White. Yet, this changed on those occasions when it served Whites to consider the racial construction of Native Americans/Indians differently; for example, when the U.S. government was determining recognition of tribal identity for either individuals or an entire tribe. Since this determination was to result in “benefits” to be allotted by the U.S. government, it categorized the blood quantum level necessary for

tribal membership as much higher than the hypodescent rule (Torres and Milum, 1995).⁵⁰

The lines of racial demarcation were changed to accord advantages to Whites. The White-run government of the U.S. has determined to whom it would distribute resources by retaining the power of naming, decision-making, and resource allocation in the hands of Whites and altering socially constructed definitions of racial categories to advantage Whites.

Historically, as well as in the present, the strategies of racial definition have kept Whites socially constructed as an “unenterable,” special, and unattainable group; one which consistently has benefitted those who have been racialized as White. An example of the centrality given to Whites is that when a White man or woman decides to have a child, they can choose whether or not to have a White child or a child of color; they have the ability to “maintain the race” or cross boundaries. Women and men of color do not have that choice; for, given the way that racial categorization is framed, they can cross racial categories among people of color, however, their children will always be children of color. This is not to argue that the goal of any person of color would be to have a White child, but rather to point out how racialization continues to provide Whites with more options, centrality, and the characterization of racial purity.

Another example of this is demonstrated in how the history of racialization in this country has economically benefited Whites. The demarcation of racial boundaries based

⁵⁰ See the description of the Mashpee Tribe v. Town of Mashpee case in G. Torres and K. Milun, “Translating ‘Yonnondio’ by Precedent and Evidence: The Mashpee Indian Case,” in K. Crenshaw, N. Gotanda, G. Peller, and K. Thomas (Eds.), Critical Race Theory: The Key Writings that Formed the Movement, New York: The New Press, 1995, pp. 177–190.

on hypodescent provided White slave masters with the ability to increase the number of slaves considered of African descent and thereby increase their financial holdings. If a White slave master raped a female slave of African descent the offspring would not be considered as White, his children, members of his family, or able to inherit or be free. This is just one of many ways in which the socially constructed ideas of race and racialization were put to work as part of an abuse of power which served the interests of Whites at the expense of those defined by them as not White.

This concentration on the Black/White racial dichotomy and slave/master relations has been at the core of racial categorization in the history of the United States and it represents the dominant ideology that White is the positive racial classification worth having. For example, there were times during U.S. history when Italian immigrants were considered not White but considered Black or Colored (Roediger in Bonnett, 1999). The effort to gain the court's acknowledgment that an individual belonged to the White racial category was the focus of many legal cases in U.S. history. And court decisions changed overtime with regards to different groups seeking such classification:

“The Court in effect acknowledged that many who in 1923 were considered White—for example, Italians, Greeks, Slavs, and Jews—were outside the bounds of that category as it existed in 1790 and had only later been defined as White. The common knowledge of who was White had changed remarkably from 1790 and 1923” (Haney Lopez, 1996, p. 104).

These racial constructions have maintained the salience of White privilege for several hundred years and it is an extension of this legacy that we still have these racial classifications in everyday speech which reinforce Whites as the center and all others marked as “Other.” Such White racialization “is the norm around which other races are constructed; its existence depends upon the mythologies and material inequalities that

sustain the current racial system” (Haney Lopez, 1996, p. 187). White privilege has been manifested and perpetuated through the multiplicity of ways in which people of color have been and continue to be negatively racialized as well as through the seeming invisibility of how Whites are racialized positively in society.

How, specifically, are Latino/as marked as the racial “Other” by being negatively racialized? How does this occur for Latino/a individuals who also belong to the racial classification of White? How is it that one can be both White and a person of color—simultaneously White and Latina, or Bi-racial and Latino, for example? This oxymoronic reality must be understood in the light of the historical and present racial hierarchy privileging White Anglophones. It is the case that while some Latino/as self-identify as White and others have been ascribed that racial categorization by U.S. Census takers (Ferdman and Gallegos, 2001), in the larger narrative in society Latino/as are seen and treated as people of color (Venator-Santiago, 2001; Rodriguez, 1996; Rodriguez-Morazzani, 1998). This has been perpetuated through the ISAs (Althusser, 1971; Rodriguez-Morazzani, 1998) and specifically institutionalized through the legal system. For example, the courts have upheld that Latino/as are to be treated as part of a protected class with regards to the Constitution, the Civil Rights Act of 1866, and other anti-discrimination laws.⁵¹

Given the complexity of the racialization of Latino/as, it is not a surprise that there would be additional markers to racialize Latino/as as people of color beyond those

⁵¹For a further discussion of this point, see A. R. Oquendo, “Re-imagining the Latino/a Race” in Delgado and Stefancic (Eds.), The Latino/a Condition, New York: New York University Press, 1998, pp. 60–71).

commonly used to racialize other groups. Such additional markers include: the use of Spanish as a first or bilingual language, a surname of Spanish origin, and the nation or region of birth or ancestry. This further demonstrates that those who are not (only/)White are “marked” as “Other.” As previously stated, it is a paradox that Latino/as can be both White and also racialized as “Other.” In these circumstances, we can see, once again, how White racial privilege plays out. This bi-racality, this duality of racial categorizations, results in Latino/as being defined as people of color. This mirrors the hypodescent rule and the ideology which states that one cannot be “both” and be pure/White.

Given this framing of racial categories, the way people articulate the larger narrative of society is by only referring to those considered “Other” as “racialized” (Small, 1999; Torres, Miron, and Inda, 1999). However, as mentioned earlier, Whites are also racialized, albeit in positive socially constructed ways; by methods which carry with them the privilege of being framed as the norm. Therefore, Whites go unnamed, not needing naming, and as racially invisible in the larger narrative (Torres, Miron, and Inda, 1999). Markers for White racial identification are not part of the common discourse on race and so Whites, in general, remain racially unmarked. Therefore, again, we can see how groups, such as Latino/as, who have been marked cannot be both marked and unmarked at the same time. Not having the invisibility of White privilege means that Latino/as are racialized and marked as “Other,” as people of color in a process I am calling “negative racialization.”

This negative racialization of Latino/as in the United States has resulted in systematic racial discrimination and oppression (Delgado and Stefancic, 1998; Haney

Lopez, 1996; Rodriguez 1996; Rodriguez-Morazzani, 1998; Urciuoli, 1996). In agreement with critical race theorists such as Delgado and Stefancic (1998) and racialization theorists such as Rodriguez-Morazzani (1998) and Torres, Miron, and Inda (1999), I argue that such racism against Latinas/os and other people of color and the racial privilege benefitting Whites are everyday affairs in this society. They are imbedded in both the institutional structure of society and the cultural fabric of the nation just as they are also acted out within individual relationships. They are the norm; reflected in the larger narratives which appear not only in the discourse of the nation but permeate the material conditions of each of our daily lives. Therefore, of course, it follows that they would permeate the narratives many need and want to engage in during a mediation.

Both positive and negative racialization is not merely the backdrop against which we mediate those conflicts which enter our family mediation centers, courthouses, and schools. I argue that it is often also the breeding ground for sources of conflict which are at the heart of the cases that come through our doors; playing a part in the relational dynamics between those involved in a mediation session. For all these reasons, it is an important topic to which the mediation field must respond.

Critical Race Theory and Dominant Narratives in Society

This section provides a brief overview of some of the central concepts from critical race theory which informed this research project and were particularly useful in the analysis of the findings. While discussing all of the tenets of this area of scholarship, I present those which have been most influential in this study.

Critical race theory emerged from the interrogation of legal doctrines by scholars concerned with the role of law in the perpetuation of racism. In particular, race critics, as

they call themselves, examine how the law serves to form and perpetuate those narratives⁵² about racial constructions and racism which are dominant in society. The creation of legal narratives through legislation and judicial opinions have profoundly influenced the cultural narratives of U.S. society. Race critics view the legal system as a pivotal institution in the framing of racial constructs and the dissemination of ideas which retain cultural value throughout society across generations. This idea of narratives having an impact on a large scale within a society is not confined to the works of race critics. It is also found in such fields as cultural studies (Minh-ha, 1992 and 1999), philosophy (Althusser, 1971), postcolonial studies (Spivak, 1993), and communication (Cobb, 1994).

Narratives which have hegemony over other narratives in society are referred to differently within these disciplines. For instances, Spivak (1993) calls them grand narratives, Delgado and Stefancic (2001) refer to them as master narratives. Despite the various terms used, they are the dominant discourse (Montoya, 1998; Perez, 1993) that is visible and audible in the institutions and cultural venues of society.

Critical race theorists write about how White privilege and the discrimination against people of color is perpetuated and articulated through the dominant narratives of rules and laws within this country. As other race critics focused on the how the legal system reinforces racism through narrative, Thomas Ross (1995) writes about how jurists have opined in cases about affirmative action by virtually erasing the history of segregation and discrimination from their narratives. Their dedication to the colorblind

⁵²In chapter three I provide a more detailed description of the components which make up a narrative.

application of laws in the face of present and historical racial discrimination has resulted in continuing to privilege Whites.

Yet, this domination over the narratives of the law is to be expected, since Whites continue to maintain a position of power as a group in this country. And as Louis Althusser (1971) warns, no group “can hold State power over a long period without at the same time exercising its hegemony over and in the State Ideological Apparatuses [ISAs]” (p. 20). What Althusser (1971)⁵³ means by ISAs are society’s institutions such as the legislature and the education system. He argues that ISAs and what he refers to as the repressive state apparatuses, (RSAs), such as the judicial and penal systems⁵⁴ are the state’s tools for perpetuating the dominant narratives.

Some social theorists and social justice educators refer to these same institutions as those which provide the benefits and restrictions used to socialize members of society in cultural ideologies and expectations (Bell; 1997; Harro, 1994; Hardiman and Jackson, 1997). These structures constrain and enable us (Giddens in Baert, 1998) depending on our social group membership. For example, if one is a person of color then these structures are constraining through their institutionalized and cultural forms of racism;

⁵³See Louis Althusser, “Ideology and Ideological State Apparatuses (Notes Towards an Investigation)” pp. 1–60, in *Essays on Ideology*, London: Verso, 1971 for his Marxist analysis of ISAs and RSAs.

⁵⁴The analysis of this case study points to the influence of the master narratives about rules and about race which have permeated this society. While critical race theorists concentrate their critiques on how they impact the legal system, I argue in chapter five, that there are signs within this case that these master narratives permeate non-judicial forms of dispute resolution such as mediation as well.

and if one is White then the hegemony of these institutions supports their life through those very same avenues (Hardiman and Jackson, 1997).

Recognizing the role of a range of institutions in the support of dominant narratives, critical race theorists speak how they are carried forth in “history books, Sunday sermons, and even case law [which] contribute to a cultural hegemony” (Delgado and Stefancic, 2001, pp. 39–40). However, critical race theorists make clear that they are not merely pointing out that these narratives exist but implicate these institutions as their progenitors. For example, they contend that legal decision-making is a form of narration which manifests the dominant discourse on race and has a significant impact on all aspects of society. That

“the legal system is not simply or mainly a biased referee of social and political conflict whose origins and effects occur elsewhere. On this account, the law is shown to be thoroughly involved in constructing the rules of the game, in selecting the eligible players, and in choosing the field on which the game must be played. Laws produced racial power not simply through racially-biased decision-making, but instead, through myriad legal rules, many of them having nothing to do with rules against discrimination, that continued to reproduce the structures and practices of racial domination” (Crenshaw et al, 1995, p. xxv).

Crenshaw et al elaborate (1995) on this by pointing to an Althusserian production of a dominant discourse. They argue two significant points here: one, that legal discourse, as a conduit of racial domination, has an impact throughout society; and two, that the law can and is used to perpetuate racism even when the rulings are not on issues of discrimination. These concepts from critical race theory which Crenshaw et al (1995) articulate are useful for interpreting how dominant discourse is reflected in and reproduced by various institutions in society. In particular, race critics focus on the use of rules in this production, and point to how even aracial rules can produce and reproduce racial domination.

Critical race scholarship argues that jurists engage the dominant narrative when they frame their efforts as colorblind, when they apply a law equally (read symmetrically) to all (Crenshaw et al , 1995). This typically liberal view of the colorblind approach forsakes any appreciation for the reality of an uneven playing field and demonstrates a lack of understanding that racial stratification can be reinforced by such legal decisions.⁵⁵ Instead, this dominant narrative reflects the beliefs that “the exercise of racial power [is] rare and aberrational rather than as systemic and ingrained [a] deviation by a conscious wrongdoer from otherwise neutral, rational, and just ways of distributing jobs, power, prestige, and wealth” (Crenshaw et al, 1995, p. xiv).

This points to the severely circumscribed definition of racism in this master narrative,⁵⁶ according to critical race literature. This narrow description posits that “racism exists when—and only when—one can point to specific, discrete acts of racial discrimination, which is in turn narrowly defined as decision-making based on the irrational and irrelevant attribute of race. [In this way] mainstream legal thought embrace[s] the ideal of ‘color-blindness’ as the dominant moral compass of social enlightenment about race” (Crenshaw et al, 1995, p. xv).

⁵⁵ Consider the passage of Proposition 187 in California. While, in theory, this law was to apply to all equally, in reality, its application would affect most those who were likely to be viewed as outsiders/illegal aliens by the dominant group: White Anglophones. Therefore, in a state with a high population of Latino/as who were immigrants, for example, language was likely to be used as a criteria for targeting and racialization. Those who spoke English as a second language were likely to be the ones who faced requests to see residency or citizenship papers before receiving healthcare or educational services. While this law was not officially discriminatory and it was argued that it could be applied to all equally, it had a disparate impact on communities.

⁵⁶ I use the terms master narrative and dominant narrative interchangeably.

Therefore, the dominant narrative reflects a particular view of laws which frames racism and the law as intertwined. An assumption underlying this narrative is that applying a standard that is colorblind (read as symmetrical—seeing and treating all as the same) can actualize equality. This process is seen as the neutral application of law to prevent racism and to remedy it. Therefore, rules dictate the aracial dominant narrative—a colorblind one—which values equality, symmetry, and neutrality.

I argue that the dominant narratives which are perpetuated through institutions such as the law are evident in the practices of mediation, as well. For example, we can see this in mediation's concentration on neutrality and symmetry as methods to uphold the commitment to "equal" treatment and fairness. This reflects the impact of this dominant narrative on mediation practice in this country.

Since mediation takes place within the larger context of a society we ought to account for the impact of dominant narratives which can influence participation and the outcome of mediation (Winslade and Monk, 2000). Critical race theorists and Althusser (1971) posit that master narratives permeate society, impacting social relations and material conditions. Therefore, it follows that such master narratives would create an impact within a mediation session as well. How might the dominant narratives of racial construction and racism, for example, permeate a mediation session? How can or should mediators respond to this? A consideration of how dominant narratives can infiltrate a mediation is incorporated into the analysis of the findings of this case study.

CHAPTER 3

RESEARCHING A MEDIATION: A PRESENTATION OF METHODOLOGY

Introduction

I conducted this study to examine ways in which mediation could be a social justice practice, concerned with and responding to inequity and oppression. I explored this question through a qualitative study of an interpersonal dispute in which the issue of the negative racialization of one of the participants was raised during the mediation session. This case provided a rich opportunity to explore the relationship between negative racialization, racial oppression, and the operation of power within a mediation using a narrative framework to analyze the storytelling process.

This chapter lays out the perimeters of the research project including the research questions, site of the study, and the qualitative methodology used for data collection, management, and analysis. It outlines the specific design created for the micro level examination of the discourse of the mediation and the individual reflections offered by the players involved. In addition, it explores the narrative theory which is used for interpreting the findings.

Originally, in the proposal for this study the research questions posed were designed to help me explore “In what ways mediation could be a social justice practice?”

These questions were:

1. In which ways do actions and words enhance or curtail participation?
2. In what way might social identity development be connected to mediators' interventions as well as participants' participation?
3. How is the story of race addressed throughout the mediation?

4. What and whose are the major storylines that get addressed, and how, throughout the mediation?
5. In what ways are the critical incidents connected to issues of identity and/or participation in the mediation?

I soon learned that these five questions were too broad; they spanned far too many aspects of social identity, too many factors involving a mediation (such as critical incidents), and made assumptions about how race would be discussed and framed.

Therefore, I sought to refocus my research questions both as I engaged further in planning the methodology as well as after the data collection and analysis were underway. They were redesigned by what I found in the study. For example, I learned that there were several significant storylines directly related to issues of identity: one about age, another about motherhood, one about being an apartment manager, and another about being negatively racialized.⁵⁷ These narratives about aspects of social identity each deserved attention and yet scrutinizing all of them was beyond the scope of this research project. Therefore, I decided to primarily focus on the narrative of negative racialization. This led me to narrow the larger question about social justice and mediation to: “How can mediation interrupt racial oppression through narrative facilitation; thereby creating a more socially just practice?” Following this I redesigned the secondary research questions which I used to operationalize the search for understanding more

⁵⁷ I used the methodology described later in this chapter to determine that these stories existed to at least some extent within the mediation discourse and that they had some significance. Briefly, I note here that that was determined through triangulating my analysis with insights from the participants, mediators, coordinator, and additional readers who reviewed the transcript.

about the ways mediation could be a social justice practice with regards to racism, in particular. These questions are:

1. How is the story of negative racialization addressed throughout the mediation?
2. How is the story of negative racialization challenged or undermined?
3. In what ways do the participants and mediators experience the story of negative racialization when it is introduced, discussed, and dropped from the discourse?

With these research questions to guide my data collection, management, and analysis, I continued to engage in the research process in the hopes of learning more about the relationship between narrative facilitation and the story of negative racialization in this mediation case.

Studying the Narrative of Negative Racialization

Why examine a case in which there was a narrative on negative racialization?

There are a number of reasons that prompted me to do so. I wanted to examine how social justice issues are handled in mediation and it seemed most useful to begin by selecting a case in which racism was a concern for at least one of the participants. This provided an opportunity to see how the discussion of racism was handled by the mediators and the participants. It gave me an opportunity to seek to identify what conditions could be conducive to participation in discussions about race-related matters. This also provided a chance to examine what conditions might be conducive to curbing participation in the discussion of race-related issues in a mediation.

The importance of researching mediation with regards to racial oppression is also connected to the stance I hold as a social justice educator, that we need to take into account issues of race as they influence participation in mediation. The importance of the

topic is underscored by the fact that there has been increasing interest in the field over the past several years by practitioners, in examining the relationship between mediation's effectiveness and issues of race and racism. This may be partially connected to the growing acknowledgment that issues of race play a role in many disputes coming to mediation programs. For example, I have noticed a pattern in the cases that the mediation program I have run in the past eight years: over half of the cases that have gone to mediation have involved at least one participant who felt that issues of race were relevant to their dispute.

In discussions with other mediation program directors at colleges, universities, and schools throughout the U.S., I have found that issues involving race are increasingly evident in disputes that are making their way to mediation. This has raised interest and concern among practitioners in the conflict resolution field and the discourse at conferences has begun to reflect this. For example, at the most recent international conference of the Association for Conflict Resolution (ACR) held in Toronto, Canada in 2001, there were facilitated discussions on conflict resolution and racism held for all 1400 attendees. Hamline University Law School held a symposium on Race, Mediation, and Dispute Resolution this same year for leading scholars and practitioners in the hopes of generating new knowledge and understanding on this topic.⁵⁸

⁵⁸It is not only at conferences held by ACR that this topic has been emerging, at the 1997 Conflict Education Network conference, the 1996 conference for the Society of Professionals in Dispute Resolution, at the 1995 and 1997 biannual conferences of the National Conference on Peacemaking and Conflict Resolution, and at the University and College Ombuds Association conference in 1997 race and conflict resolution were the focus of a number of plenaries and workshop themes. They have also been the center of heated informal discussions permeating board meetings and programmatic planning meetings for many of these on-going organizations. This reflects the fact that the

As a presenter and participant at conferences sponsored by all these organizations over the past 15 years I have seen a significant increase in the interest in this topic and what has struck me is the growing recognition that the field is not fully prepared with tools for analysis or intervention for handling racial disputes in mediation. While most agree that there is a severe lack of both information and strategies for mediators on this topic, it has not been a focal point of research. What is an additional concern to me is that as discussions ensue, mostly by practitioners, about the search for how to intervene effectively regarding race, they have concentrated on disputes which display overt signs of racial conflict, such as when racial epithets are shouted on a playground at a school. While such disputes merit significant attention by the field, this limited approach to examining what possibilities mediation offers to cases involving race matters does not take into account that race and racism are daily factors in the lives of people in this country (Delgado and Stefancic, 2001). Therefore, I argue, it must be assumed that they may be relevant factors affecting each mediation.

In my search of the literature, I did not find qualitative research on a mediation case in which race was a salient feature in an interpersonal dispute. In fact, there are few in-depth case studies on the mediation of interpersonal disputes of any kind which have been published. Perhaps this is due to the code of confidentiality that exists within the field and the fact that mediation participants are often hesitant to have their personal disputes examined for educational or research purposes. Therefore, I undertook this study within this context of a dearth of research on race and mediation, the growing recognition

intersection between race and conflict resolution is gaining visibility and stature as a subject that increasing numbers of practitioners in the field recognize as necessary to

of the need to fill that gap, and the suspicion that the current approaches to mediation obscure the presence of racial issues as aspects of disputes.

Political Basis for the Research Design

The political approach to facilitating narratives in mediation (Rifkin, Millen, and Cobb, 1991), the critique of the use of symmetry and neutrality in mediation (Rifkin, Millen, and Cobb, 1991; Rouhana and Korper, 1996), and theoretical analysis of racism (Hardiman and Jackson, 1997; Delgado and Stefancic, 2001) were the underpinnings of this particular research endeavor. Working with these theories, I sought to design a project which would respond to the call put forth by those few in the mediation field urging attention to the intersection of these critical issues. Bailey (1997), Baker et al (2000), Chesler (1991), and Dukes (1993) have noted that next steps for conflict resolution researchers should include investigations which can shed further light on oppression dynamics and mediation to explore specific tools and approaches that practitioners can use to create more socially just sessions.

More specifically, for example, Rouhana and Korper (1996) point out that research on the dynamics of power asymmetry has been lacking and that

“this problem is exacerbated by the fact that researchers, sponsors, and third parties in the field tend to be members of higher-power groups, often upper middle-class white male Americans. [They go on to argue that] the substance of the research agenda needs to become more focused on addressing the lack of fit between the symmetrical conflict processes in the research literature and the way higher—and lower—power groups actually experience conflict and envision conflict resolution” (p. 370).

Clearly there is a need to organize research projects in ways which attend to power differentials based on group membership as well as having studies conducted by

face.

researchers from targeted groups. The needs and challenges of conducting research in this area have been effectively articulated by these scholars and in my desire to conduct research in this area, I sought methodological choices which I hoped would respond to their call in several ways.

Site of the Study

I chose to conduct research at a mediation program for which I was the case coordinator. This program has had as part of its mission to seek to more fully to understand and respond to the intersection of oppression and mediation.⁵⁹ One particular way of doing this has been by trying to provide each participant with a process in which they can fully “tell their story” and have their story responded to and built upon in the narrative process of a mediation. This was based on the premise of Rifkin, Millen, and Cobb’s (1991) work, that being able to fully narrate and have one’s story built upon is fundamental to having agency in both the process and in designing the outcome.

This program is located at a large university in a small town in New England. The mediators who participated in the study came from the pool of volunteers who were responsible for mediating cases for the entire campus community. The program was student-run and made up of a diverse group of graduate and undergraduate students. The mediators had all gone through a fifty hour training which had concentrated on integrating an mediation skills with an understanding of oppression issues such as classism, racism, sexism, ableism, Jewish oppression, and gay, lesbian and bisexual oppression. In addition, these mediators had been exposed to the Social Identity

⁵⁹See Appendix J for a more detailed outline of the program’s philosophy, structure, training, and intervention practices.

Development Model (Hardiman and Jackson, 1997) and in other social justice theories. They received skill training based, predominantly, on those which have been historically taught in the U.S.; in an approach grounded in Western, Anglo culture and labor-management mediation tradition.⁶⁰ The mediators who participated in this study had been introduced to the basic concepts of narrative mediation such as discourse domination and multipartiality (Rifkin, Millen, and Cobb, 1991). In addition, they had had experience practicing mediation roleplays which involved oppression dynamics and had practice experimenting with techniques that reflected their understanding of these concepts while attempting to leave the final decision-making on discourse elaboration and the development of any agreement in the hands of the participants.

As is the case with all who had been chosen to join this program, the mediators in this study were selected for admission into the training by an application procedure and for admission into the program by successful completion of the training. Students were typically considered for selection based on interest, past experience, and commitment to contributing to the campus community through a social justice approach to mediation. Students remained in the mediation program for the duration of their time at the University, and this resulted in a team of increasingly experienced mediators as the age of the program grew. At the time this study began, one mediator had four years experience in the program and the other had been a member since the program's inception six years before. The two had experience mediating and were racialized by people in the U.S. in

⁶⁰This style is prominent in mediation programs handling a wide array of disputes throughout the country.

ways similar as the participants were, with one being seen as White and one as Latina.⁶¹

This followed a protocol that the program attempted to honor whenever possible.

Test Case

Prior to beginning my formal research, I conducted a test case—an abbreviated version of what I hoped to do for the formal research project—in order to get a sense of whether the methodology I intended to use would provide me with data to learn effectively about the phenomena I want to study. In this test case I interviewed two mediators from this same mediation program. These two had completed a mediation between two participants approximately two weeks prior. Despite the fact that issues related to racial identity and racism had been raised and were included in one of the points of agreement reached in that mediation, I merely informed the mediators that this was an interview for a test of the methodology I was considering using for my dissertation. At the outset of the interview I did not tell them what, in particular, I was interested in examining, only that getting their impressions of the mediation would be helpful to me.

I conducted an hour and a half interview with both mediators present. I audiotaped the interview and from it learned a great deal about the strengths and weaknesses of the technology and methodology I had planned to use. On a practical level, I discovered the importance of using sophisticated audio recording equipment for the best results in playback. I had not used a tape recorder that shuts off when there was silence and I was glad I had made that choice. It provided me with some information when

⁶¹The White mediator's first language is English and the Latina's first language is Spanish.

replaying the tape as to when both mediators took time to ponder and/or allow for the other to speak first on a specific topic. While difficult to transcribe, I also found it useful to see when both mediators were interrupting and talking over one another in response to a question. Having both mediators present during the interview was helpful for the data collection process. As one reflected on something they had done or thought during the mediation, the other would sometimes be reminded of his or her own reaction at that time. This “mirroring” added more information and depth to their analyses and prompted my interest in using this format in my methodology for the actual study.

Again, on a practical level, I found that the mediators could not recall the exact order of the interactions which had occurred during the mediation sessions. They remembered, for example, that a participant had stated something in a private session she had had with the mediators but they did not remember if it had occurred in her second or third meeting with them. It became clear to me that videotaping the mediation was vital. And, importantly, it was evident that in order to determine the actual impact on the participants of the mediators’ behavior and interventions, I would need to interview them as well. During the test case interview, the mediators mentioned several interventions in which they did or said something with the intention of accomplishing a particular outcome, (for example, attempting to empower a participant to feel that the mediation session was a place where s/he could construct a story that framed her/himself as a person with a legitimate concern). This made it all the more clear that it would be crucial to see what, if anything, the participants experienced in relation to the mediators’ intervention.

I made three methodological decisions based on this. One was to ensure that from the outset I secured participant willingness not only have their mediation videotaped and

audiotaped, but also to be interviewed following the mediation. Second, I decided to interview the mediators before the participants to hear from them what they had seen, heard, understood, and attempted to do. Third, I determined that before I asked the participants questions in their interviews, I would first see if they commented on their own about the same interventions that the mediators had discussed. If they did not, I would later ask them about these moments in the mediation.

Through the questions I asked as the test case interview progressed, it became evident to the mediators that I had an interest in learning about the race-related discussions within the mediation. My probing along the lines of this topic definitely altered the direction of the interview and therefore the information I received from it. I had first asked the mediators to point out the key aspects of the mediation from their perspective before I had asked specific questions about the race-related narratives so that I had a clear idea of the emphasis that they each had placed on racial issues in their own analyses. This proved useful and therefore influenced the protocol for the order of the questions I asked in the study (see Appendices C–F).

I also concluded that it would be helpful to view both the mediators' and the participants' facial expressions and other body language throughout the mediation. This was to provide me with rich non-verbal data to interpret. It would also provide a "mirroring" for each person interviewed; this way, during our interview they could also see their own as well as others' body language. It would hopefully remind them of how they were feeling at that time and also give them the opportunity to comment on the nonverbal cues they were giving and receiving in the session. I knew I was going to be

particularly interested in seeing the non-verbal communication that might occur when issues related to race arose.

The test case audio transcript revealed how very complex and data-filled even an hour and a half interview with two people could be. This was an invaluable “reality-check” about how much rich data could be gathered in a qualitative study in just one brief interview, how complex the qualitative analysis process is, and how important to my study it was going to be to have my analysis of the mediation triangulated with those creating and experiencing the mediation session.

Methodology

After conducting the test case, I had some helpful insights into the methodology and technology which could prove useful for this research endeavor. I further explored the literature on research to find out how I might best design my study. I began by contemplating the set of assumptions I carried about the relationship between researcher, topic, and those involved in a study (Kressel, 1997; Miles and Huberman, 1984). The rejection of a positivist outlook and the use of the belief that all research is subjective formed the basis of the methodology. I assumed that my lens as a researcher—impacted by my racial and other social identities—would influence what I saw, what I did not see, and how I interpreted what I examined. Also influential was the understanding that the participants in the study could contribute significantly to the generation of analyses as subjects and, to some extent, as co-researchers; and that these participants in the study were subjects and not objects of the research (Kressel, 1997). There was also an assumption that due to the realities of racism that exist in U.S. society, the participants of color in the study were likely to have perspectives which could influence their analyses in

ways that they would not have influenced mine, as a White researcher (Matsuda, 1995).⁶² My experiences with White privilege were likely to be influential in mine, despite my efforts to the contrary. These factors impacted my methodological decisions as I solicited the analyses from all involved to gather their different perspectives; and as I sought to triangulate my research through the various methods described below.

In seeking to design a qualitative study which would be based on these assumptions, I envisioned the mediation practitioner as the central subject of the observation, as the subject of the interviews, and in many ways, as my collaborator; hoping that the project would be grounded in practice and geared towards its improvement. I hoped to create a methodology which would mine “the intuitive wisdom embedded in our collective practice and refine it into a useful form” (Kressel, 1997, p. 146).⁶³ To do this effectively, I sought to conduct an in-depth qualitative study of one

⁶²This is a delicate and controversial point. I agree with Matsuda (1995) and other critical race theorists who argue that there is a “unique voice of color” (Delgado and Stefancic, 2001) which can emerge out of the experiences of racism. Yet, by offering that this voice is available to “writers and thinkers” (Delgado and Stefancic, 2001) of color, they seemingly narrow the population of those people of color who can have such a voice. I believe, in keeping with the findings of scholars such as Hardiman and Jackson (1997), that it is not one’s vocational or intellectual position in society but rather one’s stage of racial identity development which may make it possible for people of color to articulate the dynamics of racism as they play out in their lives and society. According to Hardiman and Jackson (1997), this may be accessible after the first stages of racial identity development—for both people of color and Whites. Yet, while Whites in the later stages may be able to articulate some understanding of racism, it should be noted that Whites are not speaking from the same location as people of color because of their membership in the dominant racial group. This location delimits their life experience and therefore what their voices can speak about firsthand; and their voices are still grounded in the privilege of being able to choose when and where to notice racism.

⁶³Kressel (1997) cites David Schon for the methodological approach to research of using a reflective team of practitioners.

case since it could provide an embedded context for examining the practitioner's performance. In addition, I chose the use of a reflective team of mediators to help as a method of triangulation and because the social interactions between them could enrich the analyses as well as provide these practitioners with opportunities to learn from their participation in the research (Kressel, 1997). It gave the mediators the role of naming their own reality in the research, it valued them as the actors who create knowledge, and it offered the possibility of improving their interventions immediately by reducing the area of their practice unknown to themselves (Luft in Porter and Mohr, 1982).

These reasons fueled my decision to solicit insights from the mediators and case coordinator by interviewing each of them twice. Similarly, I decided to seek the insights of the mediation participants so they could make contributions as they analyzed their own and others' participation in the case study. This, it was hoped, would help to decrease the likelihood of "group think" since all others involved included myself were mediators (Kressel, 1997). An additional benefit of using this methodology was that I was able to reduce the problem of finding a way to correlate between mediator intention and the resulting experience of the mediation participants (Kressel, 1997).

As a result of the examination of existing literature on relevant mediation research as well as on the process of researching, I decided to conduct a qualitative study of a single mediation case. In order to effectively focus on the micro-level interactions and to follow the patterns of the discourse that occur throughout an entire mediation, it was helpful to narrow the perimeters of the study to one mediation case. This would produce a voluminous amount of data and require the careful examination of the multiple narratives created during the session by the participants and the mediators. I decided to incorporate

the coordinator in the study since he engaged in the narratives of the mediation, playing a role by interacting with the mediators during their caucuses and briefly interacting with the participants at the beginning and ending of the mediation session.

The use of a single case was sufficient for providing me with the data I needed to examine the question I am studying and it is considered a legitimate unit for qualitative analysis within the field of educational research (Strauss and Corbin, 1994; Griffin, 1998; Merriam, 1990). I was not striving to test a hypothesis or to offer generalizations that can be applied to other cases, but rather, to provide a thick description and analysis of the experiences and discourse in the mediation. As was my hope, examining the behavior and discursive moves by all involved in the mediation provided rich data for analyzing the relationship in mediation between racial oppression and access to storytelling in this case. And this illustrated some of the ways in which racial privilege and racial disenfranchisement can play out through the facilitation of mediation narratives.

The research methodology entailed video and audio taping of the mediation case; interviewing the participants, mediators, and coordinator as they watched and listened to the sections of the mediation in which they took part; interviewing the participants, mediators, and coordinator in a brief follow up; transcribing, coding, and clustering the data; uncovering emerging themes; and using the codes to analyze the data. As intended, I began to transcribe, code data, and search for themes immediately following the mediation and continued to do so throughout the process of collecting further data; moving fluidly from data collection to analysis. This helped to clarify and to introduce new questions to ask in the upcoming interviews (Strauss and Corbin, 1994; Miles and Huberman, 1984). Despite this flexibility during the process, for the most part, I was also

able to follow the outline and structure I had originally developed for the protocols for each phase of the research.

Credibility, Dependability, and Confirmability

To ensure the credibility of the data analysis I utilized methodology which would provide for triangulation. All the players had access to make comments, watch the videotapes of the mediation, and to weighed in with their reactions through their interviews. In addition, they were offered the opportunity to engage with me at any point in the process to provide further insight from their perspectives. Their analyses were not only incorporated into this study, with attribution, but they informed my own interpretation as well.

I sought to provide dependability to the data collection and analysis process by accounting for the situational and personal factors affecting the process and outcome. This is further described in both the overview of the methodology as I carried it out and also in the section on Researcher's Role in the Research Process and Limitations of the Research (p. 142). In particular, I sought to be as transparent as possible with all the players as well as with my committee and myself in the hopes of bringing to light any factors which could impact the process and outcome so that they could be accounted for in the study. This manifested, in particular, in my writing myself memos (in effect, keeping field notes) and by consulting my committee on my roles in both the mediation and in the research. In order to enhance the confirmability of this study's analysis I sought feedback from others. This was conducted in several ways. I offered to the players in the study to look at the material and provide feedback at anytime in the process. Both mediators chose to do this and provided me with their insights, one before and one after

reading the findings. In addition, I similarly sought input from my committee as to the findings. Further, I had another researcher who is a mediator read the data and provide me with her reactions to it as well. In all cases I received support for the analysis I conducted and the conclusions I drew.

Below is a flowchart of the methodology which summarizes the research design. What follows it is a more detailed description of the methodology presented in a chronological manner, despite the actual circularity of the process.

Table 1: Methodology Flowchart

Intake
Memo to self
Consent forms
Case sent to coordinator
Videotaping/audiotaping mediation
Researcher watches the video, codes notes, transcribes mediation
Two colleagues code a section
Cluster coding begins
Mediators interviewed together while watching video*
Coordinator interviewed separately while watching video*
Participants interviewed separately while watching video*
Mediators interviewed separately in follow up*
Participants interviewed separately in follow up*
Coordinator interviewed separately in follow up*
Data analyzed using narrative theory
*On-going transcription, coding, clustering, theme searches, and memo writing at this time.

As the sole case coordinator of the mediation program in which I studied a discreet case, I was the person who conducted intakes with all potential participants for the research project.⁶⁴ This offered a number of challenges since I held multiple roles during this phase of the mediation procedure and the research process. I was a student researcher hoping to find a case that was appropriate and participants who were willing to be part of the study. I was also a mediation program coordinator who was interested in helping each participant determine whether or not his or her needs could best be met by coming to mediation. In this capacity, it was my job to highlight the opportunities and limitations of coming to mediation and then to let each participant decide in the end whether mediation was their best option. However, as I had anticipated, given my investment in this study, I felt an unusual sense of eagerness that participants elect to mediate; in the hope that they then might choose to participate in the study as well.

Since I had anticipated this investment on my part, I had set up a protocol to ensure that I would not influence the participants regarding their decision to mediate or join the study. For each case that potentially could fit the criteria for the study I had planned to write a memo to myself before inviting anyone to participate in the research. I had hoped that writing the memo would help me to examine the relevance of the case, my motivations for helping the participants in their assessments as to whether or not to mediate, and any reasons I could foresee that either their participation in the mediation or in the study could be detrimental to them. Despite my best intentions to follow this

⁶⁴ I discuss in more detail the relationship of the researcher to the study in the section titled Researcher's Position in the Research Process and Limitations of the Study which is found on p. 142.

protocol, I did not do so for two reasons: first, there was clear participant interest in mediating and second, time pressures were placed on me by the participants.

The person initiating the mediation, Melissa⁶⁵, met with me in person for her intake. She requested to mediate immediately and when I contacted the other party, Gladys⁶⁶, on that same day she also quickly agreed to mediate. Gladys indicated that due to her schedule I was likely to be able to meet with her only once—right away—in order to conduct her intake. Due to the fact that both parties enthusiastically requested a quick response from me as the coordinator to set up the mediation, I chose not to spend time writing the memo to myself contemplating whether I was putting any undo pressure on them to mediate.

In their intakes, after each participant had agreed to mediate I discussed the possibility of participating in the research study. I do believe that I could have spent time writing a memo to myself and considering if there were any reasons that engaging in the study would be detrimental to either. I could have then contacted them by phone to discuss the matter. However, in the process of conducting the intakes I became concerned that I would be less likely to secure their participation in the study if I raised it as a request in a follow up phone call. It seemed that the personal relationship which had begun to be built between both participants and myself would be potentially jeopardized

⁶⁵Melissa is more thoroughly introduced in Chapter Four; however, I note here that she is Latina, Spanish is her first language and she is bilingual (Spanish/English). She was raised in Puerto Rico, and she identifies her family background as African, indigenous Caribbean, and White.

⁶⁶Gladys is further introduced in Chapter Four; however, here I will note that she is White, from the mainland in the U.S., and English is her first language.

if I discussed research at a later date and in a more distant forum (the phone) rather than at the beginning and in person. In addition, it appeared to me that if I believed in the agency of each participant to decide for themselves about their involvement in the mediation then it made the most sense to demonstrate that in the request about the study as well. I also realized that I could later discern if there were any potential detrimental effects for either party. Under these circumstances, I asked for and received the participants' willingness to join the study. After they both agreed I carefully considered the appropriateness of their case and I sought the advice of my dissertation committee to ensure that there were no potential conflicts of interest on my part.

During the intake with each party, I explained the perimeters of the research methodology; telling them that I was interested in learning more about the mediation process and that I was interested in hearing how they experienced it (see Appendix B); I also explained what their role in the data collection and analysis would be. Soon after the participants had agreed to take part in this study the case was turned over to another person to coordinate the mediation. I recruited Robert for this role.⁶⁷ Although he had never coordinated cases for a mediation program before, he was the best choice since he had some experience in the mediation model that the program used and I did not have access to any person who had experience both coordinating and this particular model. According to my original protocol, he was to manage the case coordination duties from the time the participants agreed to be in the study through the follow up stage after the

⁶⁷Robert is more thoroughly introduced in Chapter Four. Here I note that Robert is an African American man who is from the mainland in the U.S. and while English is his first language, he is bilingual (Spanish/English).

mediation. I planned this as an attempt to keep the mediation process in this case from any further influence by me.

Despite these plans, I altered the research protocol. This was done because of my concerns about how the timing of the switch of coordinators might impact the commitment to participate in the research and how it might impact the experience of the parties regarding the mediation. As it had turned out there were multiple scheduling difficulties and as the process of setting up a time to mediate became increasingly complicated; and both parties, particularly Melissa, seemed invested in communicating with me about when the mediation would occur and what her experiences were regarding the case. She called several times to check in and let me know how she was doing. In addition, Gladys, the other participant, previously had had a less than positive experience with mediation which she had shared with me during her intake. While she had agreed to participate she, too, seemed invested in the ongoing connection with me. She also seemed invested in maintaining a tie with the program which she saw as a future resource for conflict resolution assistance for her as manager of an apartment complex. So, both parties seemed invested in the personal connection with me at that point in the process and I sensed that they would experience my no longer taking their calls as rude and a sign of disinterest despite the fact that I had previously told them about the need to hand the case over to another coordinator for research purposes. Given these concerns, I selected not to pass the case on to Robert until after the mediation had been formally set up and a date and time was secured.

Once the participants stated their willingness to participate in the study, they signed a consent form to demonstrate this as well as their understanding of the research

process. Following this, I selected two mediators to intervene in this case. Both Paula and Caitlin had been trained by this mediation program and had mediated for it before. They were selected (in keeping with the protocol for the mediation program) because of their experience and identities. Paula is bilingual (Spanish/English), having moved to the U.S. from Columbia. She referred to herself as a Latina in her interview and Spanish is her first language. She describes her background as multiracial. Paula was a student at the University at the time. Caitlin referred to herself in her interview as White. Her first language is English and she is from the mainland in U.S. While she is enrolled in a graduate program elsewhere she is an administrator at the University.⁶⁸ Both are particularly interested in the intersection of issues of identity and power and had been active in mediation trainings and activities of the mediation program. Both had demonstrated strong mediation skills when they were trained and had spoken often of the importance of paying attention to issues of racism and cultural differences. They seemed to be excellent choices as mediators for this study. I anticipated their interest in the reflective team approach to the study because of their on-going interest in improving their craft and the mediation program, as well as their dedication to further understanding issues of race and mediation. When I called Paula and Caitlin they immediately agreed to mediate and participate in the study. I provided Paula, Caitlin, and Robert with consent forms (see Appendix B) which allowed me to include the mediation sessions (video and/or tapes and transcripts) and their analyses of the session in my research. The study's

⁶⁸ Paula and Caitlin are more thoroughly introduced in Chapter Four.

focus on racial issues was not mentioned ahead of time to anyone involved in the research so as not to influence the mediation or their participation in the study.

The next step was to videotape and audiotape the mediation. I utilized two cameras, using one to film the participants and one to film the mediators. While videotaped data offers the opportunity to look at the verbal and nonverbal communications and acts more than once (Shailor, 1994), I also wanted to audiotape the mediation for two reasons. First, in case the video equipment failed I wanted to ensure I had a recording of the mediation; and second, should anyone participating in the mediation later decide to rescind their approval of the use of the videotape, it would provide me with an option to offer in order for them to remain in the study. Under these circumstances, I could request to use the audio recording instead of the videotape making it, perhaps, more likely that they would agree to continue as part of the study rather than have their participation in the case—and therefore, perhaps, the entire case—as unusable data. Fortunately, there were no difficulties with using the videotape for the data analysis.

The mediation session took place one afternoon over a period of approximately three and a half hours. Following its completion I edited the two films by combining them on a split screen for simultaneous reviewing of the sessions. In other words, the video of the participants' side of the table and the video of the mediators' side of the table were placed side-by-side on the screen so that both could be viewed simultaneously.

My next step was to watch these tapes and record my first analysis of the mediation, trying to highlight the behavior and words that seemed to be influential. Overall, I was looking for what mediator interventions assisted the participants in ways that reflected attention to issues of identity, participation, and storytelling. I concerned

myself with the actions and words used which might have enhanced or curtailed participation and engagement of the participants in the storytelling process, particularly with regards to any narrative related to racial issues. Since I had some sense already of what I was looking to find and understand, I used starter codes (Miles and Huberman, 1984) which assisted in my data analysis right from the beginning (see Appendix H).

I followed my methodology as planned, recording my own first impressions of the mediation in notes, transcribing the video, and then coding the data using starter codes. In addition I coded and analyzed the mediation agreement. I began working on these aspects of the methodology before I interviewed the players⁶⁹ in the mediation. As I had hoped, by engaging in data analysis right from the start of the data collection, I was able to generate specific questions which I asked in the interviews with the mediators, participants, and the coordinator as they viewed their videotaped mediation.

The design of the starter codes was guided by the research question and by my interest in learning more about how identity informs the mediation process and affects the storytelling and power dynamics related to the discourse. The starter codes concentrated on access to the unit of power that I am calling “legitimized storytelling” and on identity and racial oppression issues. In particular, starter codes codified storytelling related to racial oppression, other identities, and relational dynamics such as disconnection and connection. Specifically, this manifested in stories related to racism, race, and racialization being coded in one way and all other narratives being coded as “Other” stories.

⁶⁹As a reminder to the reader, I am using the word “players” to refer to the mediators, the case coordinator and the participants in the mediation.

While I coded for many other aspects of the discourse and behaviors in the room, these were the only ones on which I focused with regards to coding major storylines. However, close to the end of my first attempt at coding the mediation transcript I noticed that Melissa was continually referring to the importance of neighborhood relationships and to the lack that existed between herself and her neighbors as well as the absence of a connection between herself and the apartment manager, Gladys. Originally, I had seen this as only relevant to the study when it was framed as an issue related to racial oppression, but then I realized that I had been “coding on a mission” rather than listening to the data. Since this lack of connection had been raised repeatedly I went back and recoded the transcript with a code for connection and disconnection and discovered that it was actually quite a significant theme in the Melissa’s discussions.

Why had I not seen this before and not thought to begin with these as codes? Did it reflect my myopic view of the mediation as a dissertation research project just with a focus on racial oppression as I had narrowly defined it as a White Anglophone? Did it reflect my culture’s focus on the individual and her needs regarding self-identity rather than on relationship—and the assumptions that the two are distinct from one another? Did it reflect my training as a mediator to focus on individual needs, bargaining, and satisfying self? Did it reflect my training as a social justice educator in western notions of justice; those which are based on the recognition of the individual and the individual’s rights? I would imagine that it likely resulted from most, if not all, of these aspects of my socialization and education as a practitioner, educator and person. I now believe that the issue of lack of connection for Melissa is deeply tied to the story of ethnicity, racialization, and culture. Her discomfort with the lack of connection was likely tied to

her cultural expectations, her personal outlook, her experiences living in two different cultures—Puerto Rico and the U.S. mainland—and the negative racialization and ethnic discrimination against her by her neighbors. She articulated, for example, that she saw the lack of connection by the Whites in her housing complex as directly related to her ethnic identity and negative racialization, what she described as “racism.”

I now believe that I could have coded this dis/connection story as a cultural story along with other themes in the mediation which reflect specific cultural meanings. I also could have coded it as part of the negative racialization story. I came to this last conclusion well after I had completed my analysis and I believe that it both reflects the limitations of my vision and cultural lens as well as now providing an opportunity for further research using this same case.

Close to completing the coding the second time through it became evident to me that the White participant, Gladys, who was the apartment manager, had repeatedly spoken about the rules of the apartment complex and those found in society at large. It was a major theme in her discussions about the past, present, and future. So, I returned to the data and coded for stories about rules. I believe now that this, too, could have been coded as a cultural story reflecting White Anglophone culture along with other themes. During the process of coding for rules I noted, interestingly, that the tenant, Melissa, also engaged in storytelling about rules. An examination of the different role that rules play in each of their narratives was very interesting and is explored later in my analysis. There were also a number of times when all the players, particularly the coordinator and the mediators, engaged in conversations about the rules of the mediation process. Therefore, the major story themes I ended up concentrating on were: negative racialization,

dis/connection, and rules (societal and mediation). All were coded as being about the past, present, or future.

I asked two colleagues, one a mediator and the other not, to use the starter codes and to code a section of the transcript as well. I asked them to provide additional codes if they saw topics worthy of coding for which I had not provided a code. Then I compared their coding with mine in order to increase my theoretical sensitivity (Strauss and Corbin, 1994) and to illuminate at least some of my biases and the places where I was not seeing important data and themes. The differences and similarities between our coding are described in the analysis. Overall, the results were similar.

My next step was to cluster the data using the starter clusters and I generated more clusters as I continued. While I worked on clustering I began the interviewing process. In the first interview with the mediators they sat together while viewing the videotape and analyzed it jointly. As I interviewed them they engaged with one another in a manner similar to a reflective team (Schon in Kressel, 1997). I interviewed the case coordinator separately; his role was quite different from the mediators' and they all seemed at ease discussing their roles and relationships in these separate interviews.

While both mediators watched the entire mediation together I asked them a series of questions (see Appendix C) and videotaped and audiotaped our interview. They had the opportunity to stop the video at any point to provide commentary on what they had been trying to accomplish, on what they viewed as critical incidents, and on any other points about which they want to offer analyses. Building upon my learning from the test case, as I had hoped, it appeared that by viewing the tape together they reminded each other of things that had occurred, provided a mirror for one another regarding insight and

feedback as they looked back on their own and each other's interactions within the mediation, and in this way stimulated a deeper analysis than might have occurred had they had watched the tape separately.

I choose to ask them open-ended and fairly unstructured questions in order to hear first from them what moments, interactions, and experiences they found meaningful to highlight and discuss as they contemplated the work they had done in the mediation. I was curious to see whether issues related to social justice (as I have defined them for purposes of this study) were broached and how they were raised. It seemed crucial to me that I wait to see if issues related in any way to social group memberships, particularly racial constructs, were raised by the mediators independent of me. As it turned out, their analyses were filled with commentary about identity issues; they discussed how identity factors impacted their decisions about how to intervene. They also included identity in their analyses of Gladys', Melissa's, Robert's as well as their own actions. They discussed the relationship between identity and the final outcome of the mediation.

Each participant watched only those sections of the mediation in which they took part, thereby maintaining the confidentiality of the other participant's private sessions with the mediators. The participants were asked a series of questions as well (see Appendix D) to learn their perspective on the mediation and each entire interview was videotaped and audiotaped. I was interested in learning what were critical moments in the mediation for them, what assisted them in the process, and what did not. They were given a remote control in order to stop the video at anytime to give their analyses and comments. I was also curious to see whether the participants raised issues related to identity and social justice and if so, in what ways. Again, it seemed crucial to me to wait

and see if racial constructs or other identity-related topics were raised by the participants as they analyzed the tape without my interference or guidance. I was able to use these interviews to examine whether and in what ways there were connections between what the mediators and the participants saw, felt, and experienced in the session; particularly with regards to race-related issues.

One area of interest to me was examining the similarity between the intended impact on the participants by the mediators and the actual ways in which their behavior was experienced by the participants. For example, I wondered how Melissa and Gladys experienced the moves made by Caitlin and Paula when the mediators attempted to build trust. At moments when Caitlin and Paula sought to empower Melissa and Gladys to tell their concerns/their stories, particularly with regards to race-related issues, did the participants feel empowered to speak at these junctures in the process? Comparing the mediators' and participants' analyses along with my own was designed to provide a triangulation and add reliability to the findings (Merriam, 1990).

I showed the videotape of the mediators' caucuses and the beginning and ending of the mediation to the case coordinator, following the same protocol (Appendix C) for the interview I had used with the mediators. Robert offered insight into the reasoning behind the questions he asked of and the advice he gave to the Paula and Caitlin as the mediators had caucused to strategize about their interventions. Again, I did not ask about race, racism, racialization, or other identity-related topics until after he first provided his own analysis.

Throughout the research process I wrote memos regarding my insights, understandings, learnings, questions, ideas, and my experience with the research process

(Strauss and Corbin, 1994; Miles and Huberman, 1984). This helped me record what was on my mind and was later helpful in assisting with my analysis and writing. The memos also helped to prompt the development of new codes, new interview questions, and new clusters for the coding. In addition, they provided me with a place to “think out loud on paper” as I experienced researching in this manner for the first time. I did not separate out my personal reactions from the more formal cognitive analyses that I put into these memos because I saw them as interconnected and generative of one another. I had considered that it could help the creative aspects of research and writing not to compartmentalize the two.

After the initial interviews with the mediator, participants, and case coordinator, I conducted separate follow up interviews with each of them. This was done to explore how they viewed the mediation experience with some temporal distance. The specific questions I originally designed for this stage were revisited; I added to them and rewrote several after I had seen what the players had emphasized in their analyses of the mediation video and after I had begun coding and analyzing the data myself.⁷⁰

At the conclusion of their active role in the study, the mediators, participants, and case coordinator were asked if they would be willing to sign an additional consent form (Appendix G) providing me with permission to use the video and/or audio tapes as well as their analyses in future publications, presentations, and trainings for educational purposes. All readily agreed. Originally, it was my intention that I offer to strictly maintain confidentiality for participants and that the mediators and the case coordinator

⁷⁰ See Appendix E for follow up interview questions for mediators and the case coordinator; and see Appendix F for follow up interview questions for participants.

be offered the option of being named or remaining anonymous. The latter players in the mediation were offered an option since it was during the performance of their job (albeit voluntary) that they were studied and they might have wished to receive recognition for their mediation intervention, analyses, and willingness to participate in such a study; particularly if they were to choose to remain active in the mediation field. In the end, all players agreed that their real names could be used, however, all were also willing to have pseudonyms. I chose to err on the side of protecting each of their privacy and so all names except my own have been changed.

Data Analysis: The Use of Narrative Theory

I used concepts from narrative theory to assist in the analysis of the findings.⁷¹ It offered a framework and tools to use for analyzing the process of storytelling; and proved particularly useful to the examination of the discursive interactions in the mediation. The approach to narrative theory I used conceptualizes the relationship between narrative and politics as inextricably interconnected. This is crucial since it offers a specific set of concepts to use as a researcher in discerning how the construction of a narrative is bound up in power relations present in a discursive context. And in particular, this approach provided a methodological tool for analyzing how a specific discourse may be impacted by and may replicate larger stories in society.

The features which are necessary components of a complete story are outlined by this narrative approach; thereby providing a baseline to use when examining if a story has

⁷¹As previously mentioned, I used the narrative approach to mediation outlined in the work of Rifkin, Millen, and Cobb (1991) and Cobb (1994).

been fully constructed⁷² in the narration process. This approach to narrative analysis also outlines dynamics of story construction which are particularly relevant to the narration of conflict stories. Due to these factors, this approach to narrative analysis was selected for use in the data analysis. Below I explain the tenets of the narrative analysis approach utilized and then briefly outline how I employed it as a methodology for data analysis in this study.

Narrative Theory

A story can be framed as a representation of events or as a process of narrating that is seen as also constructing the context in which the storytelling is taking place (Anderson in Millen, 1992; Cobb, 1994). In the latter understanding of storytelling, the distinction between the content and process of a story is blurred. Therefore, it can be argued that since the mediator is involved in the storying process through the facilitation of narratives⁷³, that she also is involved in the content development or its suppression. In this way, “the pragmatics of mediation are thus interconnected to the politics of the process” (Cobb, 1994, p. 52). Such an understanding of a story and storytelling resonates with a critical examination of mediation; in a search for ways in which this political process can reinforce the privileges of one participant over another.

⁷²A “fully constructed” story has contains each of the elements that constitutes a story according to this theory. These elements are described in the next section.

⁷³I am using the terms “story” and “narrative” interchangeably. While I acknowledge that there is debate within the literature of the fields of communication, linguistics, and social theory, to name a few, regarding the exact nature and definitions of these terms, I am using them as stated here.

The three components used to define successful narrative construction are plots, character roles, and themes or values (Cobb, 1994).⁷⁴ These elements are described as people narrate stories of conflict and as they transform them into stories without conflict. By this definition, a story must have a chronology (timeline), articulation of the characters, and meaning made of the events and relationships involved (themes). The articulation of these elements of a story provides a baseline for examining whether stories have been fully constructed; and if not, which elements are un/derdeveloped.

The following dynamics play a key role in conflict storytelling: narrative coherence, narrative closure, and narrative interdependence (Cobb, 1994). Narrative coherence is “the unity exhibited in and constructed by the part/whole relationships of narrative components within a given narrative (Agar and Hobbs, 1982) and between narratives (White and Epston, 1990)” (Cobb, p. 52, 1994).

For example, if the description of a person’s intentions fits with the way others like him have been described in a story with great visibility in society, then it could be stated that there is unity—narrative coherence—between the two. “Inter-narrative coherence is a function of the resonance of part/whole relationships across multiple narratives” (Cobb, p. 53, 1994). This can also occur between two participants’ stories in a mediation. For example, if Participant A describes the past relationship with Participant #1 as a long-standing friendship, and then Participant #1 describes an intimate and positive friendship between the two, there would be increased narrative coherence in Participant A’s story.

⁷⁴This is similar to Millen’s definition for stories in mediation which include: plot, character, and conclusion (request for resolution) (1992).

The next dynamic to discuss is narrative closure which is tied closely to narrative coherence. Narrative closure is the process by which alternative interpretations to a narrative are sealed off; unable to emerge or to remain viable or visible. Closure is generated by stabilizing sites in a narrative which are vulnerable to destabilization by the presentation of alternative plots, character roles, or themes (Sluzki, 1992 in Cobb, 1994). This stabilization of vulnerable sites can occur by participants elaborating on or further explaining a site in a narrative.

“Some narratives are more stable than others. There are two factors that differentiate narrative with respect to stability (closure): narrative completeness and cultural resonance. The more ‘complete’ the narrative, the less vulnerable it is to alternative interpretation and transformation. Closure can also be a function of the cultural resonance—some stories are more resonant to [sic] dominant cultural myths than others. For example, stories that exhibit a rule-based logic are more effective in legal settings than stories exhibiting a relational logic (Conley and O’Barr, 1990a). Because women are more likely to tell ‘relational’ stories, their stories are more likely to be transformed by others, perhaps contributing to the construction of mediation agreements where their ‘interests’ are not present (Germane, Johnson, and Lemon, 1985). Narratives that resemble dominant cultural stories have more stability because the broader culture has already done the ‘work’ to seal off discursive sites where these meanings can be contested” (Cobb, 1994, pp. 55–56).

Therefore, stabilization occurs through the successful elaboration of an aspect of a narrative which is vulnerable to an alternative interpretation, or it can be achieved simply by the fact that the narrative resonates with a dominant narrative in society.

I use the concept of narrative interdependence in the data analysis as well. This refers to the way that characters are positioned in relationship to one another in a conflict story. It is typical for a storyteller to frame their own character’s role as positive and to place blame on another for the dispute; this involves negatively positioning this other character in the story. Negative positioning frames an interdependency between the

character roles of the victim (the storyteller) and the victimizer (the other—usually the other participant, in a mediation).

“A negative discourse position is a delegitimate social location (Fairclough, 1989), constructed via the attribution of bad intent or the assignment of negative character traits/labels (Rifkin, Millen, and Cobb, 1991b). In mediation they are synonymous with the victimizer roles. Positive discourse positions are social locations in discourse that are constructed via the attribution of good intent and positive character traits/labels; they are synonymous with victim roles” (Cobb, 1994, p. 57).

This interdependence between the positively positioned character (the storyteller) and the negatively positioned “other” is a foundational aspect of conflict narratives. It is when people come to align their understandings (transforming the meanings of/in their stories) that they begin the process of altering this negative interdependence of character roles. Narrative theory offers insight into some of the ways in which this can happen. For example, this can occur when the negative intention which had been placed on a character is eliminated and instead is shifted and placed outside the individual and/or the relationship between the two participants. This process, called externalization, can mark and/or stimulate such a transformation. The reframing of a character as positive within the discourse similarly can encourage or be a sign of this change in narrative interdependency.⁷⁵

Narrative Theory as a Data Analysis Methodology

I used these concepts and tools from narrative theory to analyze the data collected. In order to do so, I included codes for narrative analysis in order to mark the occurrence

⁷⁵These are some of the key aspects of narrative transformation; for further reading on this subject see Cobb, S. (1988); Cobb, S. (1994); Millen, 1992; and Shailor (1992).

of these narrative dynamics in both the content and process of the narration in the mediation. While I began with several as starter codes, as I undertook the process of coding I discovered the need for additional narrative codes.

The use of narrative theory as part of the qualitative inquiry process for analyzing case studies provides the researcher with a set of specific concepts to interpret both the content and the process of story construction (Cobb, 1988; Hernandez, 2000). The reflexive relationship between the telling and the context of the telling can be more thoroughly understood using these narrative tools for analysis.

Researcher's Position in the Research Process and Limitations of the Study

A significant limitation of this study is the fact that I was only able to examine all the data, including the analyses provided by others, from my own point of view. This view is influenced by the fact that I am a White Anglophone from the U.S. Certainly all the other aspects of my identity have also influenced my analysis, however, since the focus of this study is on negative racialization, it is crucial to acknowledge that it is through this position of privilege—as a White Anglophone—that I have conducted this research. I was not able to interview all those who took part in this study in their first language since I do not know Spanish. I see this as a limitation since the full expression and nuances of communication can be lost in translation (Moraes, 1996). Since this also required two of the players to discuss this mediation in my first language not theirs, I see this as burden for them which reflects Anglophone privilege.

While I was unable to eliminate all limitations, I tried to narrow their impact in several ways. My dissertation committee has diversity in the race, culture, first language, ethnicity, gender, religious heritage (and other categories) of its members. As well, a

number of mediation and social justice education colleagues who are people of color, Whites, Anglophones, and speakers of other languages as their first language provided input on the methodology before I began the study. I hope that these factors, along with the analyses that the mediators, participants, and the case coordinator offered, helped to ease the limitations of my own view.

Utilizing triangulation should have assisted in undermining, to some extent, the inevitable fact that as a White Anglophone I could not fully know or understand what the experiences might be of a person of color in this mediation. Yet, this limitation undoubtedly manifested in what questions I did or did not think to pursue as well as how the mediators, participants, and case coordinator chose to engage with me in the research process; meaning specifically, what they chose to share with, acknowledge, and interpret to me as a White Anglophone researcher. Another limitation is related to my relationship with the mediation program itself. I have been the lead program developer, implementer, and trainer for this program since its inception. I have trained all the mediators including those who engaged in this study and the case coordinator who took part in this study as well. It was a challenge for me to see aspects of the research with enough distance to reflect on them with a fresh perspective because of the intimacy and familiarity I have with some of the people involved and the design of the program.

Since I have been the sole case coordinator for this program I needed to find someone else willing to act as the case coordinator. This created an additional challenge; the mediators were, therefore, not used to working with this other coordinator and he had not had prior experience offering support and strategic advice to intervenors during their mediators' caucuses. It is also a limitation that the case coordinator did not have previous

experience engaging with this particular model of “social justice mediation” as a coordinator. While he had been trained in this model, this, undoubtedly, gave a different and new flavor to the guidance provided by a coordinator to mediators in this program during this particular case. There are also several factors which limited the population available for participation in the study. The research was limited to a population which not only had to be willing to agree to participate in a mediation but also to agree to be involved in and to give the time necessary to be part of the study. In addition, the program was located within a university setting and the only cases which came to it were those that involved at least one member of the university community. While the participants could have been students, faculty, staff, administrators, or others who interacted with the campus community, all the mediators in the mediation program were either graduate or undergraduate students. This public university is situated in the northeastern part of the U.S. in an area with a small population of people of color both in the local communities and on campus. By its very nature this program limited the population of those who could have possibly participated in the study.

Despite these limitations, the research was undertaken and analyzed with great interest and vigor by all involved, with all of our expressed hopes that it might make contributions to the mediation field. Throughout the process, each player was continuously positive and helpful in their collaboration with me, offering countless hours to assist in analysis and follow up conversations. All indicated an interest in seeing the outcome of this project and a pleasure at having been part of this endeavor. After the close of the formal data collection stage I received inquiries from each person who

participated, inquiring about how the research process was going and if the material they were a part of creating had proved beneficial to the field.

Both mediators and one of the participants have repeatedly stated that participating in this study changed their views of mediation and both mediators stated that it has influenced their practice. Therefore, while I hope that the outcome of the study provides some measure of service to improving the practice and theory of mediation, I am honored and pleased that the methodology and actual experience of taking part in the study seemed to have some worth to the players and not only to myself.

CHAPTER 4

FOLLOWING THE STORY OF NEGATIVE RACIALIZATION: A PRESENTATION OF FINDINGS

Introduction

As mentioned in Chapter One, empowerment in mediation can be defined by the extent to which a participant can storytell in mediation, others engage in her stories, and her stories influence the outcome (Shailor, 1992). Access to storytelling and elaboration, then, is fundamental to a story's effectiveness: the practical influence that it can have on the lives of participants after a mediation.⁷⁶ And a lack of access to full engagement to storytelling creates or reinforces disempowerment and disenfranchisement through the narrative process. These narrative dynamics must be understood within a broader context, one which is imbued with the realities of oppression. This idea is built upon the work of those critics of mediation from both within and outside the field who have argued for the necessity of accounting for the larger context affecting people's participation in mediation.

Having begun with the assumption that personal disempowerment in the narrative process could likely be combined with and/or the result of the operation of racial oppression, for example, this study sought to explore the avenues through which that could occur or be undermined in this mediation case. To accomplish this, narrative theory was used to understand how the Story of Negative Racialization (NRS) was dealt with, engaged with, and facilitated. The findings were used to conduct a narrative analysis

⁷⁶See Millen, J.H. (1992). A social constructionist critique and case study of mediation: No complaints, no choice, no problem. Unpublished dissertation. Amherst: University of Massachusetts.

which revealed ways in which racial oppression were both disrupted and reconstituted during the narrative process in this mediation. The findings presented in this chapter describe the relationship between each of the players in the mediation and the Negative Racialization Story (NRS). This, in turn, reveals how the lack of story engagement, facilitation, and the resulting lack of story effectiveness for the NRS resulted in procedural and substantive racial privileging in this mediation case.

Story facilitation was an avenue through which this occurred in this case; with some stories told and legitimated and others hidden, “conquered,” and left unfinished in their telling. The presentation of this study’s findings are organized to illustrate how, through storytelling and story facilitation, the disruption of racial oppression was attempted and how, despite several minor successes which occurred on that front, ultimately, there was an overall failure; reproducing, instead, racial privilege. The findings presented in this chapter offer a thick description of the data upon which the analysis was built.⁷⁷

First, there is an extensive section describing the backdrop of the mediation; this includes a description of the players, the chronology of the process, and the structure of the mediation session. Then, there is a brief outline of the different stories presented by the participants to lay out the discursive context in which the Negative Racialization Story struggled for visibility and viability as a story. Following this, there is the detailed presentation of the findings which describe the relationship between each of the players

⁷⁷This analysis is presented in full in Chapter Five.

and the NRS. This provides responses to the secondary research questions (found below) which are also discussed in the conclusion to the chapter.

1. How is the Story of Negative Racialization addressed throughout the mediation?
2. How is the Story of Negative Racialization challenged or undermined?
3. In what ways do the participants, mediators, and coordinator⁷⁸ experience the Story of Negative Racialization when it is introduced, discussed, and dropped from the discourse?

The Mechanics and Logistics of the Mediation

This section begins with an introduction to all those who took part in the mediation and this study. It then provides an overview of the chronology of the session, the mediation structure, and the site of the intervention.

The Players⁷⁹

Paula:	Mediator, Latina, of multiracial heritage, speaker of Spanish as a first language
Caitlin	Mediator, White, Anglophone
Robert	Coordinator, African American, Anglophone
Melissa	Tenant at Meadowlark Apartments, Puerto Rican/Latina, of tri-racial heritage, speaker of Spanish as a first language
Gladys	Apartment complex manager at Meadowlark Apartments, White, Anglophone

⁷⁸I added the coordinator to this question after I had started to examine the findings. After discovering the impact the coordinator had on the story facilitation process it appeared quite appropriate to do and was clearly missing from the original question.

⁷⁹I have sought to use the terminology that each player used to describe aspects of their own identity.

Leah Mediation program director and researcher (conductor of the mediation intakes), White, Anglophone

Chronology of Events Leading to Mediation

Melissa contacted the mediation program in person on November fourth requesting a mediation with Gladys, the manager of Meadowlark Apartments where she lived. During the intake, Melissa told me that she had received a letter from Gladys informing her that since she had had a party that had gotten out of control that she would be evicted if things did not improve within thirty days. Melissa said that the letter's characterization of the party had been entirely inaccurate. Melissa thought that the woman whose apartment shared a wall with hers had either called Gladys or the police to complain about the party. This neighbor, Melissa explained, had often banged on their shared wall, knocking down Melissa's pictures. Melissa had wondered why this woman would not come nextdoor and talk with her. During the intake Melissa volunteered the following information: she was a young single parent of a three-year-old and she was a student who lived in a building with mostly elderly people. She said that she "likes Latin music, not piano music" and that she was not sure if it was that or if it was that they had different perceptions of what was loud that had caused the "nextwall neighbor" to bang on the wall.⁸⁰

Melissa said that she was willing to mediate with this particular neighbor, as well. In response to Gladys' letter, Melissa had written a letter pointing out the inaccurate characterization of the party and had offered to go to mediation. During the intake she

⁸⁰ It was during this intake that I ascertained that Melissa's first language was Spanish and she later told me she was from Puerto Rico and had moved to the mainland to attend the university.

told me she was planning to deliver the letter to the manager and gave me permission to discuss the situation with Gladys and to invite her to mediate.

I conducted the intake as the mediation program director. I am a White Anglophone from the mainland U.S. who, at the time this case was being handled by the program, was a graduate student in my thirties. During the intake, I discussed with Melissa how the mediation process worked in this program and also went over the state law regarding confidentiality for mediation. After Melissa stated that she wanted to pursue a mediation, I invited her to be part of this research study. She agreed and signed the first consent form for participation in the study (see Appendix B).

When Melissa left the mediation office I telephoned Gladys conveying the mediation request and Gladys agreed to participate. She stated that she could only discuss the situation with others once Melissa had given her written consent and gave me permission to pass this information on to Melissa. I immediately contacted Melissa telling her what Gladys had said. Melissa responded by saying that she wanted to mediate with Gladys alone first, without the neighbor present. She also said that, along with the letter she had written, she would give Gladys written permission to speak to me about the situation. I recommended that she seek a police report since she had wondered what information the police had and one had been referenced in the letter to her from Gladys. I then called Gladys and said that Melissa would be delivering to her written permission to release information about her and I offered to talk further with Gladys in confidence before the mediation if she so chose. Gladys suggested that I get a copy from Melissa of the manager's letter that had been sent to Melissa.

Next, I contacted Robert and he agreed to act as the coordinator of the case should all involved consent to being in the study. Robert is an African American Anglophone man from the U.S. mainland. He is in forties and had previously been trained in the mediation model this program uses. While English is his first language, he is fluent in Spanish; he is also a parent.

Melissa delivered her release form to Gladys and I was able to meet with Gladys soon after this on November 10. She is a White Anglophone and told me she is a single parent. She seemed to be in her thirties or forties. In my meeting with Gladys I went over how the mediation process worked in this program and I also went over the state confidentiality law for mediation. Gladys described her understanding of Melissa's party and the reasons she sent the letter to Melissa. Gladys stated that there had been a police report which described Melissa as involved in incidents which had occurred on the night of October 31. She stated that Melissa's party had been loud and had gone on late, disturbing her neighbors. She pointed out that as manager she was responsible for ensuring that tenants had access to the quiet enjoyment of their homes and that since there had been a police visit to the property and a police report issued she had needed to take the situation seriously. Therefore, in her letter to Melissa, Gladys had stated that she had been in violation of a number of provisions of the lease and that according to law, Melissa had thirty days to demonstrate that she would abide by the lease. Gladys stated that she was glad Melissa was taking the situation seriously and, to her, Melissa's request to mediate was a reflection of this. It was a result of this seriousness that Gladys agreed to participate in the mediation.

Gladys then agreed to participate in the research study and signed the first consent form to participate (see Appendix B). At this point, I explained that I would no longer be coordinating, given my role as the researcher in the study, and that Robert would be acting as the coordinator. I then reached Melissa and explained to her Robert's role as coordinator and why I would no longer have this role in their mediation. I also sent both Gladys and Melissa letters thanking them for being willing to participate in the study and wishing them the best for the mediation.

Next, I reached Paula and Caitlin separately by telephone (on November 12 and 13, respectively) and both agreed to mediate this case and then agreed to participate in the research study. Paula is in her thirties and is from Colombia. Her first language is Spanish and she describes herself as Latina and her heritage as multiracial. She was both a graduate student and a professional at the time this mediation was taking place. Caitlin describes herself as a White woman; she is from the U.S. mainland and English is her first language. She was also both a graduate student and working professionally. Caitlin is also in her thirties and is a parent.

Even after securing the participation of all five players, I continued act in the capacity of coordinator. I realized that a personal connection already existed between Melissa, Gladys, and me and I feared losing their investment in the mediation and the research if I did not maintain contact with them. I also found that, to some extent, trust had been built between us and that they expected to receive my listening ear when they talked. It seemed artificial to cut that off despite the research protocol I had originally set up. Therefore, Robert and I agreed that he would take on the official duties of coordinating after he had met them in person. I continued to be the one to set up the

logistics speaking with all five people—Melissa, Gladys, Robert, Paula, and Caitlin—over the next two weeks as I tried to match everyone’s schedules and secure a room for mediating. The day and time changed several times due to circumstances beyond people’s control; such as when Gladys’ secretary took an unexpected medical leave and so Gladys was unable to close the office to attend the mediation.

Robert and I went over the case notes I had taken and the letters given me by Melissa and Gladys. I gave him their telephone numbers and he contacted them to introduce himself by phone. I also sent a map to Gladys so that she would know exactly how to reach the mediation site which was located on the university campus with which she was unfamiliar. All others coming to the mediation knew how to reach the site.

On November 30, Caitlin, Paula, Robert and I met at the room where they were to conduct the mediation session on December 10. We tested the cameras and the lighting to be used for the research project. Paula and Caitlin had an opportunity to talk together and discuss the strategies they like to employ for communicating with a co-mediator. They also had a chance to connect personally and chat. Robert, Paula, and Caitlin had the chance to connect and Robert practiced the role of coordinating as they all engaged briefly in a roleplay practice session in which I acted as a disputant. We discussed facilitating stories⁸¹ and trustbuilding with participants; and Paula and Caitlin identified some strategies they hoped to use during the mediation to build trust and connection with each participant and to help them feel comfortable narrating.

⁸¹We did not discuss how to facilitate certain types of stories, for example Stories about Negative Racialization, but rather how to make encourage narration of any topic which the participants might want to discuss. See Appendix J for more on the background training of mediators in this program.

While having a check-in time before mediating is typical of this mediation program and many others at community and educational institutions across the country, it is unusual to conduct a roleplay in preparation for a specific mediation session and to meet so far in advance. Most often mediators and the coordinator check-in about a half hour or hour before a mediation begins. We specifically met on an earlier day so that I could check the camera, recording equipment, and the lighting.

On December 9, the day before the mediation, Melissa contacted me. She said that several weeks prior, her “nextwall neighbor” had started yelling and cursing at her through the wall and so she had gone to her door and knocked. When there had been no answer, Melissa had called the cops. Recently, the neighbor had called the cops on her when her three-year-old daughter had been watching TV. She said that she had reduced the volume some anyway despite the fact that when the cops showed up they had told her that it was not too loud. She also said that she had gone to see Gladys about the matter. She said Gladys had appeared understanding toward Melissa but had acted as if she was not going to do anything about the situation. Gladys had recommended to Melissa that she and the neighbor go to mediation and Melissa told me she was ready to initiate that through our program. We agreed to wait until the mediation between Gladys and Melissa took place the following day before setting up the one between the neighbor and Melissa.

Chronological Outline of Events Leading to Mediation

October 31 Birthday party

November 1 Letter from Gladys to Melissa

November 4 Melissa comes to Mediation Program; agrees to mediate during the in-person intake; Gladys contacted by Mediation Program by phone; agrees to mediate

- November 10 Mediation Program reaches Robert by phone; he agrees to coordinate
- November 10 In-person intake with Gladys
- November 12 Paula phoned by Mediation Program; agrees to act as mediator in this case
- November 13 Caitlin phoned by Mediation Program; agrees to act as mediator in this case
- November 10–December 7 Phone calls and fax to schedule mediation
- November 30 Roleplay practice with Paula, Caitlin, Robert, and Leah
- December 10 Mediation

Post-Mediation Research Chronology

- December 21 Follow up interview #1 with mediators (Paula and Caitlin) together
- December 22 Follow up interview #1 with Robert
- March 10 Follow up interview #1 with Gladys
- March 21 Follow up interview #1 with Melissa
- January 29 Follow up interview #2 with Paula
- February 9 Follow up interview #2 with Caitlin
- May 28 Follow up interview #2 with Melissa
- June 14 Follow up interview #2 with Robert
- July 17 Follow up interview #2 with Gladys

The Mediation Session: Timeframe and Structure

The mediation took place on December 10 from about 2:30pm–6:00pm. The mediators met before and after the session to prepare and debrief; the actual mediation session lasted three hours, from 3:00pm–6:00pm. I arrived around 1:30pm and set up the cameras and microphones. I also arranged the furniture so that the mediators would be

sitting on one side of the table and the participants would be on the other side of the table facing the mediators. This is the typical setup for this program and for many others.⁸² For the cameras to effectively observe everyone in the room at the same time, I put two tables (approximately 2.5' X 6') together to make one large table (5' X 6'). This made the distance between the participants and the mediators a bit farther apart than usual.

As is typical in mediation programs, the mediators and the coordinator showed up about half an hour before the session to connect and prepare.⁸³ In this case, Paula, Caitlin, and Robert arrived at 2:30pm. I told them I was turning on the cameras to begin filming and recording. The four of us, all of whom know each other, socialized briefly. I went over the logistics regarding the cameras, microphones, and the additional rooms available for use as waiting rooms for the participants. Then I left the room and Robert, Caitlin, and Paula began the mediation process with a typical pre-mediation planning caucus between the coordinator and the co-mediators. Robert told them that he would be available for consultation during the mediation, that as the coordinator he would sign any written agreement reached, and that after the mediation he would follow up by checking with the participants to see how things were going regarding their agreement, if one was reached. The three discussed logistics; such as who would initiate the introductions. They joked a bit together as well. Then Robert mentioned that he had another commitment to attend to elsewhere in the building until 3:30pm. However, he said that he could be called

⁸²The physical setup of the space for mediating reflects the cultural values represented by a mediation program. This is discussed in the analysis of the mediation in Chapter Five.

⁸³For a brief outline of the structure and timeframe of the multiple sessions within this mediation see page 155.

out of that meeting at any point if the mediators needed him and that he would be sitting outside the mediation room after 3:30pm. Then Robert left the room.

Caitlin and Paula spent some time discussing logistics regarding their opening statement.⁸⁴ They discussed how they wished to handle the introductions and facilitate the session. Again, this is all typical for mediators as they prepare for a co-mediated session. Paula and Caitlin reminded themselves and each other of their interest in connecting with both participants.

The way in which they did this reflects the mediation model⁸⁵ which they were using and the approach to mediation that is based on multipartiality.⁸⁶ For example, they talked about switching seats part of the way through the mediation so that they each could be physically close to each participant. They discussed the idea of having the

⁸⁴The opening statement typically includes an overview of the mediation process and any guidelines for participation.

⁸⁵They were both trained at this program which emphasizes paying attention to how issues of identity and oppression can influence the development and understanding of a conflict for participants and mediators; as well as how these factors can impact people's participation in a mediation and their plans for the future/agreement. They were also trained to see mediation as a storytelling process. In this way, they were taught that their roles as mediators were to facilitate the discussion of stories about the past and to assist participants in developing narratives about the future which may end up being mutual (co-constructed) and thereby called agreements. See Appendix J for a detailed description of the philosophy, training, and intervention model of this mediation program.

⁸⁶As previously stated (in Chapter One), multipartiality is the concept describing the condition of being biased towards all participants. In effect, it calls for a mediator to work to meet the storytelling needs of each participant. It supports the narrative approach to mediation in this way. In addition it requires a focus on providing access to full participation in the construction and engagement with narratives in a mediation. And moving beyond that, it calls for mediator assistance in helping to construct narratives which are complete and which offer the possibility for legitimate and positive character positions for each participant. See the work of Rifkin, Millen, and Cobb (1991), Cobb and Rifkin (1991), and Cobb (1994).

participant go first who they thought had the least power or whose identity seemed to imply that they had the least power in the relationship between the two participants. And they discussed the possibility that they would answer questions about who they were in order to make connections with participants. This, they framed as a way of being partial to the participants' potential need to know who their mediators were and what their life experiences had been. They thought knowing such things might help a participant trust them more fully and therefore feel more comfortable to tell them her story.

The mediation began shortly after 3:00pm. Melissa, Gladys, and Robert entered the room and introductions were made. Robert explained his role and availability to all and then left.⁸⁷ The mediation followed a structure typically used in our program (and many others) with one exception which will be noted later. The process began with what is called a joint session in which both mediators and both participants are present. The mediators then met in what is called a mediators' caucus. During mediators' caucuses, the mediators have an opportunity to accomplish a wide variety of tasks.

For example, after the introductory joint session, the mediators' caucus is often used by the mediators to decide together which participant to see privately first. Mediators also use caucus time to double-check that they are on the same wavelength regarding the content and process of the mediation. Are they hearing the same things?

⁸⁷ Having the coordinator leave the area to do another activity at the time of the mediation is not the formal protocol of this program. However, there were no other possible dates and times to mediate before the close of the Fall semester. Following that was an extended winter break; Melissa was going home to Puerto Rico until the Spring semester began at the end of January. Therefore, I had agreed to remain outside the mediation room and to get Robert if he was needed during the time that he was elsewhere in the building.

Are they missing an opportunity to ask an important question? Which one of them ought to ask the question? It is typical to use the mediators' caucuses to discuss facilitation strategies and how best work as a team. The mediators in this program also use this time to consider questions regarding identity and power issues and ponder together how to most effectively address them while demonstrating that they are multipartial. This time can also be used to decompress if the topic or personalities are challenging for the mediators. In many programs the coordinator checks in during the mediators' caucuses to see if the mediators need advice or support. In this program, as coordinator, I typically check in during each mediators' caucus.

In this mediation, the first joint session consisted of the mediators giving an opening statement which covered the goal of mediation, role of the mediators, the format of the process, and the guidelines for participation. While each program handles this opening differently and each mediator has their own style, these are common topics to be either presented or discussed with participants at the beginning. Caitlin and Paula present their opening statement in a fairly traditional style by laying out their expectations and then answering questions.

They used wording which reflects both traditional mainstream mediation values (see Chapter Two) and the values of this program's social justice and narrative-oriented model. While this is examined more thoroughly in Chapter Five, I note here that the traditional mediation values of neutrality and symmetry were expressed in their word choices; as well as the values of connection and narration.

The following table shows excerpts of the opening statements made by Caitlin and Paula:

Table 2: Excerpts of the Opening Statement⁸⁸

Caitlin:	<p>The <i>goal</i> of mediation is to find a way to work out whatever it is that has brought you here together...it's completely voluntary...you both have reasons that bring you to this table...we are here to <i>listen to your concerns and your issues</i>...and we're here to really listen to each of your stories...our role is not one of judgement...it's one of trying to understand what the issues are...where you might have sort of <i>common ground</i>. And the process is to help you find that place. Umm, and <i>we do that together</i>...the whole process is <i>confidential</i>...I make <i>notes</i> ...to remind myself...But other than that, the only thing that will leave umm, the final mediation, assuming we come to some kind of an <i>agreement</i>, would be an agreement form that is signed...and you're welcome to take notes too, for yourselves. Whatever makes it easiest for you to—to figure out how this process might be useful to you."</p>
Paula:	<p>"Well, umm, <i>exception to confidentiality</i> is when someone's life is in danger...this is the way ahh, this process is going to happen: umm, I'm gonna ask you when you're together here not to interrupt each other and just talk to us; and <i>each of you is gonna have ample opportunity to umm, speak and tell us</i> what's going on...another <i>important rule</i> is that umm, you also <i>show respect</i> for each other...and we also ask people...to umm, <i>try not to engage in name calling or raising their voices</i>...and <i>this is what's going to happen from now</i>: umm, after I finish introducing this part to you we're going to ask each of you to tell us what's happening. And then we are also going to have <i>individual meetings</i> with each of you. And we're gonna be <i>switching back and forth</i>...we will also <i>meet both of us alone</i> to discuss, umm, what's happening in the process...in the end, hopefully, we are going to umm, be able to find <i>points of agreement</i> and, as Caitlin said, you know we'll have an agreement—a <i>written agreement</i> for you. However, if umm, we don't have enough time to get to that part we will schedule another appointment so that we can finish up. Hopefully we'll finish today. But I want you to know that we're committed to—to this until the end...do you have <i>any questions</i> (pause) <i>about us or about the process</i>? [After answering some questions]...Okay. Who would like to begin telling us what's going on?"</p>

⁸⁸I have italicized some words in the opening statement to highlight the *key topics* the mediators are discussing. Bold is used to highlight particularly **value-laden** words. And, of course, there is overlap between the *topics* discussed and the **values** imbedded in the discussion.

Following these opening statements Gladys began describing things from her perspective. Then Melissa talked about what had happened from her point of view. After the first joint session, the mediators met with each other and decided with whom they should meet next; deciding to call Melissa into the first private session with both of them. At the close of Melissa's private session there was another mediators' caucus followed by both mediators meeting with Gladys in a private session. Next, the mediators met again without the participants present⁸⁹ and the coordinator joined them for part of their caucus. The mediators then had a brief, second, private session with Melissa; which was directly followed by an invitation for Gladys to join the three of them for a second joint session with which to close the mediation.⁹⁰

The final joint session contained a brief interruption as both participants left to make phone calls to make it possible for them to continue mediating past 5:00pm. During this short break, the coordinator joined the mediators in what turned out to be a brief mediators' caucus. After this quick pause in the final joint session, Paula, Caitlin, Gladys

⁸⁹I made an intervention which influenced the mediation process at this point. As noted earlier, it is typical in this program for the coordinator to check in with the mediators during their mediators' caucuses. Robert had not returned from his other meeting as he had planned and so he was unaware of the stages and timing which the mediation had gone through by this point. Because I wanted the mediation to follow the typical process used in our program—hoping to benefit those involved in the mediation and because I was researching this particular process—I went and spoke to Robert. I told him that the mediators had had a longer first private session with Melissa and a briefer private session with Gladys and that they were in their second mediators' caucus at that point. He would have been aware of this had he been present outside the mediation as planned.

⁹⁰Not giving Gladys a second private session before calling her into the final joint session is a very unusual move for mediators in this program and the reasons they did this are mentioned later in this chapter.

and Melissa met to conclude the mediation. This ended with a written agreement and the coordinator was invited into the room to join in the signing of it. Robert was the first to sign the agreement, followed by both participants, and then the mediators. It is typical to have all involved sign and/or bear witness to the participants signing.

After the signatures were collected, Robert made copies for each participant and told them he would contact them to Follow up. With the mediation concluded, I entered and thanked each person for having been willing to participate in the study and told them I would be in touch to set up interviews. Everyone said their thank yous and goodbyes. Robert was the first to leave; this was unusual since the coordinator usually stays and debriefs with the mediators. After Melissa and Gladys left, Caitlin and Paula debriefed together for several minutes.

Timeframe of Mediation

23 minutes and 20 seconds: Mediators' Preparatory Caucus

16 minutes and 30 seconds: Joint Session

3 minutes: Mediators' Caucus

36 minutes and 43 seconds: Melissa's First Private Session

4 minutes: Mediators' Caucus

25 minutes: Gladys' First Private Session

17 minutes and 45 seconds: Mediators' Caucus

7 minutes and 50 seconds: Melissa's Second Private Session

20 minutes: Joint Session

2 minutes and 41 seconds: Mediators' Caucus

41 minutes and 59 seconds: Joint Session

2 minutes and 40 seconds: Mediators' Debriefing Caucus

(3 hrs., 21 min., and 28 sec: Total time: from Mediators' Preparatory Caucus through Mediators' Debriefing Caucus)

Total Time in Mediation Room for Each Participant

123 minutes and 2 seconds: Melissa

103 minutes and 29 seconds: Gladys

The Mediation Site and the Roles of Each Player

The mediation was held in a carpeted meeting room in a university building which is open to the public. There were restrooms and drink vending machines on the same floor and there were two additional rooms reserved for the mediation; one for each participant to wait separately in during the mediators' caucuses. There were windows in each of the rooms. In order to provide for both anonymity and confidentiality the mediation was located on a floor with multiple meeting rooms and the rooms were not listed as reserved for the purposes of a mediation.

The mediators held the roles of facilitators of the mediation process. This included presenting an opening statement covering: introductions, an overview of the structure and format of the mediation, a presentation of the guidelines, and a discussion of the roles of the mediators and coordinator. Their roles entailed: facilitating the conversations within the session so that the participants could describe what had happened (tell their stories); offering a private setting for each participant to explore their own stories; conveying one participant's stories to another when given permission to do so; creating an environment which is conducive for each participant to engage with and explore the other participant's stories; helping participants consider their options; and facilitating the construction of plans—a mutual story or two separate stories—of what the

participants would like to have happen in the future. If the participants co-constructed a mutually acceptable future story and if they chose to write it out in the form of an agreement, then the mediators were to assist them in doing so. If the participants did not create a mutual plan, then the mediators were to help them consider what other options they each had which they could pursue independently. Under these circumstances, the mediators were to summarize the clarity or decisions reached by each participant and any shared understandings of a past or future story (even if a full agreement had not emerged). In effect, they were to highlight any movement towards mutual understanding and self-empowerment (Shailor, 1992) which had occurred due to narrative elaboration (Millen, 1992).

They were to employ some of the typical skills used in facilitating a mediation such as active listening, building trust between the mediators and the participants, asking open-ended questions, summarizing, and managing the technology of the process (i.e.: facilitating participants coming and going from the room, taking notes, keeping track of the time, writing the agreement, etc.). Paula and Caitlin carried out their roles in the mediation by engaging in the tasks and responsibilities mentioned above.

The coordinator's role typically involves responsibilities before, during, and after a mediation takes place. During the intake and screening of cases she manages logistics such as selecting mediators, securing meeting space, and scheduling a mutually satisfactory time for all. Before handing over the role to Robert, I took care of these tasks. Just prior to the mediation and once on site, it is common for the coordinator to check-in with the mediators in a pre-mediation caucus about who will do the introductions between the mediators and the participants. Then, depending on the coordinator's style

and the experience level of the mediators, the coordinator comes into or is available to participate in the mediators' caucuses to provide support, ideas, or reminders about the process. The coordinator is also available to answer questions for the participants while they are waiting to go into the mediation room. She witnesses any agreement by signing it and then makes copies of the agreement for each participant. After the mediation, the coordinator debriefs with the mediators and makes contact with the participants (usually by telephone unless the participants do not have phones) to provide support for the agreement. Robert engaged in his role by checking in with the mediators in the pre-mediation caucus, by participating in three of the five mediators' caucuses which took place during the mediation, and by signing, copying, and providing the written agreement to the participants at the end of the session. After the mediation, he called Gladys and checked with her about reimbursement for the costs of parking during the mediation and he left a message for Melissa who was on vacation at the time of his call.

Presence of the Players in the Chronology of the Mediation

Preparatory Mediators' Caucus: Paula, Caitlin, and Robert

Joint Session: Paula, Caitlin, Melissa, and Gladys

Mediators' Caucus: Paula and Caitlin

First Private Session with Melissa: Paula, Caitlin, and Melissa

Mediators' Caucus: Paula, Caitlin

First Private Session with Gladys: Paula, Caitlin, and Gladys

Mediators' Caucus: Paula, Caitlin, and Robert

Second Private Session with Melissa: Paula, Caitlin, and Melissa

Joint Session: Paula, Caitlin, Melissa, and Gladys

Mediators' Caucus: Paula, Caitlin, and Robert

Joint Session: Paula, Caitlin, Melissa, and Gladys

Closing of Joint Session: Paula, Caitlin, Melissa, Gladys, and Robert (Leah joins at the end)

Mediators' Debriefing Caucus: Paula and Caitlin

The Content of the Mediation

This section presents an overview of the content of the mediation discourse. It examines the leading stories discussed and the story of Negative Racialization, in particular.

Overview of the Content Discussed in the Mediation

The crux of Melissa's narrative centered specifically on the night of her daughter's birthday party and, more generally, on the experience of living in an apartment without having other young families around and surrounded by White elderly people to whom she did not feel connected. She described feeling disconnected from her neighbors who falsely accused her of being noisy and mistreated her. She also spoke of her dedication to treating her neighbors in a racist and respectful manner and how she wanted to feel at home in her apartment with her daughter.

Melissa had received a letter from Gladys regarding rules violations (regarding noise and a fight) and she described how it had affected her; she also chronicled the inaccuracies it contained. She (re)characterized the party as not too loud and insisted that a visit from the police late in the afternoon during the party had not resulted in her being asked to lower the volume of her music. She had shut down the party and left the premises before 11pm; a reasonable hour for a Saturday night according to her tenants' rights and responsibilities book. She characterized herself as a responsible neighbor, one

who wanted to know her neighbors and be respectful of them. She also said when she read the letter from Gladys it had been the first time she had heard that a fight had occurred in front of her apartment; that she had not been present at the time of any fight.

Melissa described how upset she had been after receiving Gladys' letter; she had cried and worried so much about being evicted that she had been unable to study for two weeks. She said that she did not want to be viewed as having done things she hadn't. She pointed out that she had never had this problem when living in other apartment complexes. Melissa indicated that her previous experiences in apartment complexes had been in Puerto Rico and that she had recently come to the mainland to attend college. Previously, when she had had elderly neighbors, she had treated them as grandparents and they had treated her as a grandchild; this had meant mutually looking out for one another and she gave several examples of this. However, Melissa explained, at Meadowlark Apartments where she now lived, she shared a wall with an unreasonable neighbor. Throughout the mediation she chronicled the numerous times this woman had banged on their shared wall even when Melissa or her daughter were making the smallest of necessary daily sounds. She described this neighbor's behavior in the following ways: banging on the wall, yelling, cursing at her through the wall, and refusing to communicate with her face-to-face even when Melissa sought her out to do so. Melissa described this neighbor's and other neighbors' behavior (such as hostility, ignoring her, and making false accusations) as racism and a lack of knowing how to be a good neighbor in a multicultural community. All of this constitutes the narrative Melissa elaborated upon and reiterated throughout the mediation in both joint and private sessions.

Gladys' story was oriented around Melissa with regards to rule violations, legal rights, and standards of behavior for living in the community at Meadowlark Apartments. She described receiving a police report the Monday after the weekend on which Halloween fell. She also had received complaints that on Halloween Melissa had had a party which had been too loud. She stated that tenants living around Melissa had been afraid to leave their apartments because of a fight that had occurred outside of her apartment during the party. Gladys spoke of her responsibility as the apartment complex manager to protect tenants' rights: the rights of all tenants to the quiet enjoyment of their homes and Melissa's right to be protected from frivolous complaints against her for having a child who made a normal volume of noise. She pointed out that no complaints made for such a reason would ever be or have ever been passed on by her to Melissa.

Gladys described the importance of setting a tone with Melissa that would cause her to take the violation of the rules seriously and to be able to function successfully within the community guidelines. Handling matters in the present as well as keeping an eye towards the future was part of Gladys responsibility. For example, in the event that Melissa or others were ever non-responsive to a letter from Gladys, she knew that having sent one provided her with legal protection if she had to initiate an eviction. Under such circumstances, she would be able to demonstrate that she had followed the necessary procedures and legal requirements to take such a step.

Gladys talked about being glad that, for all intents and purposes, even before the mediation session day had arrived, that she had already gotten what she had wanted: that Melissa's 30 days of probation were over and she had been a "model citizen" during that time; and that Melissa had taken the situation seriously enough to request a mediation.

Gladys expressed her regret that the letter she had sent had had such an impact on Melissa, making her so upset that she could not study for a period of two weeks. Gladys conveyed her support for Melissa living comfortably with her daughter. This is the overall description of what had taken place that was offered by Gladys during the mediation.

Melissa and Gladys each discussed their thoughts about the future as well. Melissa wanted: peaceful and connected relationships with people in her apartment complex; to have Gladys participate in a future mediation with Melissa and Melissa's nextwall neighbor; to be able to talk with Gladys about any questions she may have about Meadowlark's rules; and to have workshops offered at the complex on being a good neighbor in a multicultural setting. Gladys wanted: to be sure that Melissa understood Meadowlark's rules and norms, particularly regarding noise and parties, in order to prevent future violations; to support Melissa in following the rules; to prevent Melissa from hearing any unnecessary complaints against her—those which did not represent violations of the law or Meadowlark's regulations; to have a positive relationship with Melissa; for Melissa to undertake a mediation with her nextwall neighbor if she so chose; for Melissa to be able to live comfortably with her child in her apartment and for her to feel free to use the lawn at the apartment complex for playing with her daughter.

By the close of the mediation, out of these desires for the future Gladys and Melissa had constructed the following mediation agreement.

We have taken part in a mediation session on 12.10.98 and have voluntarily agreed to the following:

1. Gladys and Melissa agree to contact each other in case that there are noise complaints or issues to be clarified before sending a warning. Gladys will call Melissa if there are complaints. However, this process will change if there are numerous, verifiable complaints.
2. Melissa agrees to be responsible over her guests with regard to noise and parties and will make sure that they leave the premises.
3. Gladys and Melissa agree that issues with the other neighbor will be addressed through mediation between Melissa and the other neighbor.
4. Melissa and Gladys agree that Gladys will be consulted and kept informed throughout the mediation process with the other tenant.

Stories in the Mediation

There were a number of story strands which were raised during the course of the mediation. I have chosen to name them as “stories” whether or not they were not fully told; even if all the components of a complete story were not present.⁹¹ I sought to identify, in particular, those stories which carried significant meaning for the players in the mediation and I used several criteria to accomplish this. I watched the videotapes of the mediation and used my intuition as a mediator; I traced topics in the transcript—ways of framing characters, themes, plots, chronologies—which emerged repeatedly and/or with emotion; I went over the videotaped interviews conducted with each player and listened for what they had articulated as important with regard to this dispute and setting; and I used the insight provided by the additional readers of the transcript.

There are, of course, some stories which can be seen as imbedded in and overlapping with other stories. Despite this, I have tried to articulate in this section what seemed to be the major stories which held significance. Given an opportunity to fully

⁹¹The components of a story include characters, themes, and chronology (Cobb, 1994).

develop them, each of the following stories contained a possibility during the mediation for a complete and meaningful telling for the storyteller. (I gave the stories their ownership based on who initiated them.)

Melissa:

Motherhood; age; disconnection/connection; responsibility; tenancy; neighborliness; negative racialization; daughter's birthday party; and life as a student.

Gladys:

Melissa's party; legal rights—tenants' and management's; Meadowlark Apartments' rules and procedures; irresponsibility/responsibility for tenants and management; and Melissa's rights as a parent.

Caitlin and Paula:

Trustbuilding with the participants; the context of Melissa's living situation.

Paula:

The racial context of Melissa's living situation; the impact of Melissa's identities—age, ethnicity, negative racialization, first language, student status, single parent status—on participating in the mediation and on her relationship with Gladys, her neighbors, and Paula and Caitlin.

Robert:

the rules of a traditional mediation; time.

The stories in the mediation were not engaged with in the same manner; and it is evident from the videotapes and transcript that some were discussed more thoroughly than others. It would be worthwhile to trace each story throughout the mediation to analyze its treatment and the depth to which it was cultivated, however, this was beyond the scope of my study. As previously mentioned, I concentrated on following the Story of Negative Racialization and I also intensely coded the stories of dis/connection, trustbuilding, and rules. The discussion of traditional mediation rules—procedures, guidelines, norms—were placed under one story category; and deemed as separate were those rules relating to society at large and Melissa and Gladys' context in particular (i.e.:

legalities or Meadowlark's policies, etc.). I also chose to have a third category which encompassed all the discussions of rules—despite the context—calling this the Rules Stories. The abbreviations for the stories which are most relevant and frequently used in the presentation of findings are found below.

Codes/Abbreviations of Significant Stories in the Mediation

Dis/connection story	D/CStory
Traditional Mediation Rules Story	MDR
Societal Rules Story	RS
Rules Stories (MDR + RS)	Rules Stories
Negative Racialization Story	NRS

A Closer Look at Storytelling About Negative Racialization

While the Story of Negative Racialization was not fully realized it is still a fundamental story in this mediation and provides insight into the relationship between story development, story facilitation, and racial oppression in this mediation. In Melissa's final interview she makes clear that racism had been central to her housing problems before the mediation, (which is something she implied in her intake, as well), and that it remained so following the mediation. She implies that it is her neighbors' racism which led to their false accusations against her to the police on October 31 and to Gladys at other times. She cites this racism, therefore, as the driving force behind what brought her into mediation and what she framed five months later as "still the problem now" (Follow up interview #2).

Given that Melissa describes her neighbors' racism as the central reason for her housing difficulties, several things stand out when the mediation is examined as a whole:

that it was not dealt with in either the mediation agreement or in the verbally agreed upon plans for the future made during the session, and that over five months after mediating it is still a problem for her. How can we understand the relationship between the underdeveloped Story of Negative Racialization and this experience of Melissa's?⁹² Narrative theory offers tools for an explanation. Despite the fact that the Story of Negative Racialization was not successful in its development as a complete narrative, it did serve as a site for political struggle (Cobb, 1994) over issues of racial oppression during the mediation. In this way, the periodic emergence of the Negative Racialization Story (NRS) can be seen as momentary interruptions of the silence of the racial oppression Melissa was experiencing. It may also have assisted Melissa and Gladys in contemplating and/or clarifying the role that negative racialization played in the relationships and conflicts associated with the housing complex. While this occurred in dramatically different ways for the two participants, to some extent it seemed to have taken place for both; and this is explored in the findings as well as in the analysis in Chapter Five.

Yet, as each player supported or undermined the development of the NRS through narrative and nonverbal moves they were also engaged in discussions which, in the end and overall, privileged other stories. These other stories were more fully elaborated and,

⁹²It is important, also, to look at Gladys' experience in relation to the Story of Negative Racialization and this is done in Chapter Five when I examine how the results of the mediation privilege Gladys and the other White non-Latino/as affected by the mediation. However, since the NRS was Melissa's narrative which was not fully explored during the mediation, then it is important to start the examination of the storyline by beginning with her. In addition, using the approach from critical race theory of "looking to the bottom" to determine if racism is being dismantled (Matsuda, 1995) requires centering the examination on Melissa given that she is the target of the racism.

therefore, more effective (Millen, 1992) by directly influencing the agreement and future plans Melissa and Gladys created (Rifkin, Millen, and Cobb, 1991; Cobb, 1994; Millen, 1992; Shailor, 1992).

Tracing the (demise of the) Story of Negative Racialization lead to the gathering of data regarding this study's research question: How can mediation interrupt racial oppression through narrative facilitation; thereby creating a more socially just practice? While a more in depth analysis is presented in Chapter Five, suffice it to say here, that there were some examples of interruption which occurred during the story facilitation process. However, what dramatically stood out in the findings was how easy it was for racial oppression to remain uninterrupted and to be reinforced by story facilitation; despite the interests and efforts of mediators and a participant to the contrary.

Findings

The findings of this study focus on the relationship between the players in the mediation and the Story of Negative Racialization and serve as the basis for the analysis of how racial oppression was perpetuated and, on occasion, interrupted by story facilitation. The presentation of findings include an in depth presentation of each player's narrative and non-verbal strategies with regards to the NRS and the conditions which occurred surrounding this story whenever it emerged, was engaged with, and disappeared from the discourse.⁹³ This will eventually illuminate why I determined that these are the three key findings:

⁹³While the presentation of the findings is not organized in this section according to the secondary research questions, it does provide data which directly responds to each one and which is summarized in the chapter's conclusion.

1. The Story about the traditional Rules of Mediation (MDR) and the Rule Story about laws and Meadowlark's regulations (RS) were the most common stories to interrupt and emerge following the NRS. In effect, the discussion of a story about rules regularly interrupted and pre-empted the continued storytelling about negative racialization, thereby marginalizing it.
2. The Negative Racialization Story (NRS) was only raised by and actively and repeatedly engaged with by the two Latina players.
3. The named outcomes⁹⁴ of the mediation for the participants—the written agreement, the verbal plans, the relationship connections, the feelings of empowerment—were based on stories which were fully elaborated upon (i.e.: the RS and MDR) and not on the NRS which was not.

While all of these are explored in depth in the analysis in Chapter Five, here we begin by tracing the NRS throughout the mediation to see how this summary of the key findings was reached. An examination of the NRS reveals particular patterns in narration. Highlighting these patterns of narrative engagement (or lack thereof) are fundamental to understanding what happened to the Story of Negative Racialization and how the players experienced it in this mediation. This will help us to understand how the narration and facilitation of the NRS at times interrupted, although, most often perpetuated, racial oppression.

The Negative Racialization Story

The data about the Negative Racialization Story is presented in five sections. The first section outlines the criteria for defining the perimeters of the Negative Racialization

⁹⁴The participants named for themselves that these were the outcomes of the mediation. There certainly might have been other outcomes that went unnamed by the participants. For example, Caitlin stated that she thought Melissa might have felt empowered by Paula raising and engaging in the discussion of the Negative Racialization Story. However, this is speculation since Melissa did not name this in this way for herself. In addition, in Chapter Five I will examine an outcome unnamed by either participant which I see resulting from the mediation: the perpetuation of White privilege.

Story. This identifies those markers used to delineate the beginning and ending of discussions of the NRS. The second section describes the narrative features of the NRS.

The components of a story are matched with those parts of the NRS which did emerge during the mediation and those which did not are also highlighted. An extensive look at the players' moves associated with the NRS are covered in section three. This includes a summary of the nonverbals, utterances,⁹⁵ and euphemisms related to the narration of the Story of Negative Racialization; the narrative strategies each player employed with regards to the NRS; and the narrative strategies shared by players belonging to the same groups.⁹⁶

The subsection on the players' narrative strategies makes up the bulk of the presentation of the findings and it provides the most significant data for responding to the research questions. Section four describes what occurred in the discursive context surrounding the NRS, those stories and behaviors which preceded, coincided with, and immediately followed the NRS.

This section also explores the relationship between the NRS and the Rules Stories (MDR and RS), given the pattern of overlap and domination by the latter of the former. In the final section, the place of the NRS in the entire mediation session and the agreement is described.

⁹⁵I am using this word informally to refer to verbal communication which are not heard as words; for example, sighs, laughter, and changes in voice tone or volume.

⁹⁶These groups include: mediators, service providers, participants, Anglophones/speakers of English as a first language, Latinas/speakers of Spanish as a first language, people of color, Whites, females, male, and all players.

Perimeters of the Negative Racialization Story (NRS)

The markers I used to search for and identify a narrative segment about negative racialization included mention of: skin color, White identity, Latino/a identity, the category of people of color, geographic region tied to Latino/a origins/ancestry (i.e.: Puerto Rico), English as a second language, and racism/racial discrimination. These markers are consistent with those typically used in narratives about negative racialization, particularly of Latino/as (Haney Lopez, 1996; Rodriguez-Morrazzani, 1998). These markers highlight that all present at the time were likely to have experienced the discourse as related to race/racialization/race issues.⁹⁷

There are 15 times in the mediation when the Negative Racialization Story emerges according to the markers I used to code the transcript. For example, in a mediators' caucus with Paula and Caitlin present I coded the following excerpt as a segment of the NRS:

Paula: "Ahh, and then she's the only person of color, single mother"

Caitlin: "right"

Paula: "she said, in this place. Which is another concern. Umm, so I mean, I guess [pause] those are issues that we should address [voice trails off]."

Caitlin: [begins simultaneously] "those are all—I think those are all really important issues umm and the—I think and we can talk when we talk to Melissa again maybe come back to it, I think what she was saying about the

⁹⁷See Haney Lopez (1996) and Rodriguez-Morrazzani (1998) for more on the recognition and use of these as markers for racializing Latino/as. These markers resonated with what I found when interviewing each player. All except Robert initiated or acknowledged that the discussions involving race/ethnicity took place in the mediation at the points which I have identified as the NRS; also stating that these discussions held meaning in the mediation. Robert did acknowledge that Paula had wanted to discuss race/ethnicity issues, however, he did not find them to be at all relevant to the case.

discrimination issue I think what she was saying was, that whoever is responsible for housing is afraid they'll be accused of discrimination if they boot her out."

Paula: "Yup."⁹⁸

Included in the NRS throughout the mediation were references to the following named markers: 12x⁹⁹ there were references to racism and they were found in over 66% of the 15 NRS segments. The racial identity of Whites was raised 4x overall in over 26% of the segments.¹⁰⁰ The ethnic/racial identity¹⁰¹ of Melissa—regarding her being Latina/from Puerto Rico/a person of color—was raised 9x in total and in over 46% of the segments. The fact that Melissa spoke English as a Second Language was raised 2x overall and was found in 13% of the NRS segments. Each of the NRS segments are listed below by number and they can also be found in their entirety in Appendix L.¹⁰²

#1: (Mediation transcript line 2565–2568) Paula, Caitlin, and Melissa are present

#2: (Mediation transcript line 2789–2879) Paula, Caitlin, and Melissa are present

#3: (Mediation transcript line 3109–3142) Paula, Caitlin, and Melissa are present

#4: (Mediation transcript line 3308–3322) Paula, Caitlin, and Melissa are present

⁹⁸This excerpt is NRS segment #5.5, lines 3564–3586 in the mediation transcript. See Appendix L.

⁹⁹The symbol "x" is used to denote one time when something occurred.

¹⁰⁰The context in which White identity was raised appeared to relate directly to the discussion of Melissa's negative racialization.

¹⁰¹Both Paula and Melissa referred to being Latina as an ethnicity; while others referred to it as a racial identity.

¹⁰²The person whose name is underlined and in bold initiated the discourse about Negative Racialization. There are 9817 lines in the transcript and the lines encompassing the Negative Racialization narrative segment is identified in parentheses for each instance. See Appendix L for the transcript excerpts of each NRS segment.

- #5: (Mediation transcript line 3523–3528) Paula and Caitlin are present
- #5.5:¹⁰³ (Mediation transcript line 3564–3586) Paula and Caitlin are present
- #6: (Mediation transcript line 5189–5201) Paula and Robert are present
- #7: (Mediation transcript line 5637–5675) Paula, Caitlin, and Robert are present
- #8: (Mediation transcript line 5734–5758) Paula, Caitlin, and Robert are present
- #9: (Mediation transcript line 7706–7746) Paula, Caitlin, Melissa, and Gladys are present
- #10: (Mediation transcript line 7752–7765) Paula, Caitlin, Gladys, and Melissa are present
- #11: (Mediation transcript line 7790–7827) Paula, Caitlin, Gladys, and Melissa are present
- #11.5: (Mediation transcript line 7828–7855) Paula, Caitlin, Gladys, and Melissa are present
- #12: (Mediation transcript line 8474–8501) Paula, Caitlin, Gladys, and Melissa are present
- #13: (Mediation transcript line 8954–8965) Paula, Gladys, and Melissa are present

The Story Features of the NRS: Characters, Plot, and Themes

To effectively trace the Story of Negative Racialization an understanding of the components which make up a narrative is necessary. As previously stated, stories share several structural components regardless of their content. Each has a plot (which includes a chronology), characters, and themes or values given by the characters and/or storyteller

¹⁰³NRS #5 and #5.5 as well as #11 and #11.5 were given the numberings they have because they are more closely connected (by timeframe and content) than other segments of the story. The second in each pair, while representing a distinct moment in the discourse, can also be seen as a continuation of the storytelling which occurred in the first segment of each pair.

(Cobb, 1994). As we can see from the descriptions of what Gladys and Melissa discussed during the mediation which are summarized above, Gladys had a story which included all three of these components.¹⁰⁴

For example, Gladys' account of what had occurred over the course of one evening involved Melissa not following Meadowlark's rules about quiet, this negatively impacted her neighbors, this led to police intervention, and caused them make a record of their visit to the apartment complex.

As a result, to live up to the guidelines of her job, Gladys was compelled to write to Melissa threatening eviction. In this account, there are a series of events (a chronological plot) which reflexively position the characters positively or negatively with regards to several sets of rules. These positions are evaluated according to an interpretation of the relevant rules, making meaning of the storyline. Therefore, we can see that Gladys' narration about rules contained all the components of a story—about the past, at least.

Since fully telling a story is not enough to create a successful agreement in mediation (Millen, 1992), for people to feel empowered by that process (Belenky et al, 1986; Shailor, 1992), or for a mutually acceptable future story to be co-constructed (Rifkin, Millen, and Cobb, 1991; Cobb, 1994), then we must turn to look at the other aspects of story narration: engagement and elaboration by others (Rifkin, Millen, and Cobb, 1991). In other words, as previously described, stories in mediation need to be

¹⁰⁴ A brief description of the story of rules introduced by Gladys is offered to illustrate the elements of a story and how its telling and elaboration can lead to its effectiveness (Shailor 1992) via its impact within and after a mediation.

told, engaged with, and elaborated upon by others to make an impact on the future plans as they are designed during a session.¹⁰⁵

Therefore, the next step is to examine whether the story about rules which Gladys offers is engaged with and built upon. We find that Melissa had already begun engaging with Gladys' account before she entered the mediation. In the letter to Gladys which she delivered prior to the mediation she had responded by engaging with and refuting Gladys' description of events, the positioning of Melissa in her story, and the meanings offered regarding the rules she was accused of having violated. Melissa's first narration at the beginning of the mediation was an engagement with the story about rules which Gladys had first narrated. She refuted Gladys' framing of what had happened with regards to the party, the police, and Meadowlark's policies.

The mediators, too, engaged with this story about rules throughout the mediation, asking questions and facilitating the elaboration of the story components. For example, they engaged with Melissa as she described a different perspective on the chronology of the night of the party. Melissa's framing of the characters and their positions were in opposition to Gladys'.

¹⁰⁵This does not assume that the telling of a story cannot have an impact on someone's thinking or action in the future if that story was not engaged with or elaborated upon during a mediation session. In fact, Bush and Folger (1994) have effectively articulated some of the ways mediation can have a potential impact on the future behavior of and relations between participants even after a session has concluded. Mediation is put in perspective when they point out these future possibilities and frame a mediation session as merely a moment in a participant's life and in their relationship with the other participant. Therefore, while I argue that for a story to make a significant impact on the co-constructed outcome designed during a mediation it must be engaged with and elaborated upon, I also recognize that the telling of (or attempting to tell) a story in mediation does not necessarily mark the end of its life or its impact on the individual teller, for example.

Gladys described the neighbors as victims of Melissa who had violated policies and demonstrated unneighborly-like behavior. But Melissa positively positioned herself as a rule-abiding and thoughtful neighbor; while she constructed her neighbors as rude and insensitive to her. So, despite the differing perspectives, Gladys and Melissa both clearly engaged in the Rules Story which had been originated by Gladys, as did the mediators who facilitated this discourse.

The differing accounts offered of the chronology, the positioning of the characters, and the meanings given to their actions and intentions by Gladys and Melissa is a typical way in which people demonstrate their conflict in narrative form (Cobb, 1994). If participants are able to transform the conflicting elements (such as the meanings attributed and the negative positioning of characters, for instance), then a story can become conflict-free (Cobb, 1994). For example, if two participants can agree upon a new interpretation of a past situation after clarifying a character's past intentions, this can result in reframing the character from a negative position to a positive position in the story's plot.

A further examination of the agreement (found on pages 169–170) and the informal plans laid out verbally by Melissa and Gladys demonstrates that the elaboration of the Rules Story moved it from containing only an historical chronology to including a future one; from a story with a number of people negatively positioned to one with all characters positively positioned with regards to rules. This framing of the future was the basis of the agreement and therefore, the Rules Story Gladys had initiated was a success.

What of the Negative Racialization Story? Did it have all the elements of a story in its telling? Was it engaged with and elaborated upon by the players? It was not

successful on any of these fronts. Much of the NRS is opaque and merely implied but as I present the data on the NRS I shall highlight both what was made clear as well as what I and other players believe was behind some of the intimation.

A variety of characters are presented by different players as involved in the NRS; as shown in Table 3.

Table 3: Characters in the NRS as Named by the Players in the Mediation

Melissa	Gladys	Paula	Caitlin	Robert
Neighbors	“everybody”	Elderly White neighbors	“whoever is responsible for housing”	
elderly neighbors	Melissa	Melissa		
Gladys (implied)	Melissa’s daughter	Gladys		
Melissa		Melissa’s family (implied reference to her daughter)		
Melissa’s daughter				
families in the apt. complex				
administration/management				
Caucasian nextwall neighbor				
other students				
nextdoor				
neighbor				

This demonstrates a number of things: it shows who engaged in any discussion about the characters in the NRS; whose telling of and/or engaging with the story involved

the most characters; who used racialized terms to describe some of the characters and which ones; and who described characters in the most generalized ways. Most obvious is that the discussion regarding characters in the NRS was not explored or elaborated upon by any of the players to the extent that it was by Melissa.

Since discussing characters is closely tied to the other two aspects of a story—chronology of plot (what they did) and meaning (what it meant)—it would appear that the lack of narration about characters reflects a lack of narration on the NRS as a whole. Clearly most of the characters who Melissa wanted to discuss in the NRS were not part of the narration of others.

Were other aspects beyond the characters in the Negative Racialization Story more fully engaged with or elaborated upon by the players? A chronology of the NRS was close to absent from the mediation discourse. A few time-oriented comments were made, however, they provide less than a fragile skeletal outline of a story. In the example below there is reference made to the past. Melissa describes how she was feeling at one point which occurred prior to the mediation:

“In the first letter that I wrote I was like, I’m not even gonna go into the fact that I am single mother, Latino, young parent, student in this area because then I would be saying that you guys are racist. And I don’t wanna go there because then I am assuming you guys are racist” (NRS segment #2).

In response to Melissa’s description of the segregation¹⁰⁶ in the Meadowlark Apartment complex at the time of the mediation, Gladys says that she was unaware of

¹⁰⁶The specific words used in reference to segregation only included references to age and family status; however, given Melissa’s comments in her Follow up interview and the fact that the pretext of the conversation about segregation was a comment about where people from different races were living, I see the discussion of segregation as directly related to the NRS. It is what I am calling a “coded” comment; meaning it stands

this since “everybody” is assigned according to who is next on the list (NRS segment #11.5). And there are also comments by the mediators, made (all but one time by Paula) in their caucuses about the NRS story as it is being told by Melissa during the mediation itself:

Paula: “She’s the only ahh person of color, single mother she said, in this place. Which is another concern.”

Caitlin: “I think what she was saying was, that whoever is responsible for housing is afraid they’ll be accused of discrimination if they boot her out” (NRS segment #5.5).

There were some brief comments involving the NRS which spoke to a future chronology, for example, when Melissa stated that she would “feel so good” if she moved and her daughter could have neighbors to play with “but then, [voice drops to a hush] wouldn’t they like think that’s discrimination...the like management or something?” (NRS segment #3). These and several other comments demonstrate that the narrative of Negative Racialization had the story elements of a past, a present, and a future; however, the narrative was not successfully pursued—let alone successfully—in any of these time zones and therefore did not manifest a coherent chronology.

This failing, alongside the lack of fully developed characters, provided a poor story structure for meaning-making. There are only two partially articulated themes which are repeated during segments of discourse devoted to the NRS: 1) that Melissa and her daughter are isolated and mistreated by their neighbors with an insinuation that negative racialization has prompted this; and 2) that Melissa is concerned about raising the topic of her negative racialization and isolation because she fears that “management”

for race or negative racialization or is race-related even though it is not spelled out in so

would feel accused of racial discrimination and racism. Despite the faint visibility of these themes, they are severely underdeveloped in the discourse of the session. Therefore, the necessary components (characters, plot, and themes) of a story are not sufficiently expressed by storytelling, engagement, or elaboration for the NRS. This results in an ineffectual storyline which is quite evident from the future plans and agreement (see pages 169–170) which do not contain any aspect of the NRS.

Moves Impacting the NRS

The narrative and nonverbal moves made during the NRS segments reflect some patterns for the players involved. Overall, what the patterns suggest is that the discourse about Negative Racialization elicited emotional responses from a majority of the players and that those strategies that elicited further discussion of the NRS were generated by the two players who are Latina, Paula and Melissa.

Summary of the Nonverbals, Utterances, and Euphemisms Related to the NRS

The vast majority of the utterances and nonverbals which occur during the NRS segments came from Melissa and Paula. Gladys, Caitlin, and Robert seem to only use nonverbals when moments are tense in the discussion of the NRS. In addition, the latter three do not ever laugh during any of the discussion of the NRS, while Paula and Melissa do, not infrequently. Other types of verbal utterances which are not words (such as sighs and vocal changes) are also generated by Melissa and Paula far more often than by any of the other three players during the NRS.

many words.

Subtle Nonverbals Occurring During the Negative Racialization Story Segments

Throughout the mediation, overall, Melissa is animated, passionate, and engaged. Yet, on three occasions during the NRS (#2, 3, 13) she looks and acts particularly quiet. No commonalities between these three segments were found which might provide insight into understanding the meaning of this behavior.

#2: Melissa nods, is silent for a time before responding, closes eyes slowly

#3: Melissa looks down, speaks quietly, holds her face in her hand, plays with paper

#13: Melissa lowers her head and voice

Dramatic Nonverbals Occurring During Negative Racialization Story Segments

Dramatic displays of nonverbal behavior occur in each segment of the mediation when the Story of Negative Racialization intersects with a story about rules (#8, #9, #10, #11, #11.5). There are significant physical signs of a reaction acted out when the NRS is raised in all these segments. In these instances, the Rules Stories seem to clash with the NRS.¹⁰⁷ There are also dramatic displays in #12, when no story about rules clashes with the NRS; however, by the end of this NRS segment, the Rules Story effectively outlasts and dominates it. What follows are the synopses of these interactions.

(#8) During a mediators' caucus, time is introduced by Robert as a factor to which the mediators are supposed to be paying attention (MDR) and Paula pushes back with a discussion related to the NRS. Robert then pushes back again about the appropriate structure of a mediation (MDR). There are big physical reactions from all present (Paula, Caitlin, Robert); more so than at any other time during the mediation. Paula pulls in her

¹⁰⁷This is explained in further detail later in the chapter; see page 251.

breath, lifts her arms, gestures, moves her shoulders, sits erect, for a long period looks for away from Robert (despite the fact that he is speaking to her and Caitlin), and instead she looks at Caitlin and then sighs loudly. Caitlin sits erect, gazing for long at Paula. Robert lifts one arm up and puts one down, holding them about four feet apart and then he knocks on the table six times with one hand.

(#9–#11.5) Paula introduces the NRS during the final joint session and then both Melissa and Gladys push back against this story: Melissa disowns the NRS and Gladys introduces a Rules Story about the apartment complex policies as a way to dismiss the relevance of the NRS (Gladys' Follow up interview). The stress that appears in the room manifests in Paula's, Melissa's, and Gladys' nonverbals; it does not appear in Caitlin's nonverbals. Melissa looks down, is animated, smiles, raises her eyebrows so that she looks "curious," worried, or with wide-eyed anticipation. Gladys marks a list on her fingers. Paula furrows her brow, wipes her brow, and puts her hands in her lap.

(#12) In the final joint session, Melissa raises "discrimination" as an issue, with the NRS implicit behind this topic, although no one engages with the NRS verbally. Gladys leans toward Melissa, smiles, nods, and then stops smiling. Caitlin nods and folds her arms. Melissa leans forward, is animated, uses her hands while speaking, leans back, leans forward, and smiles. Paula stops writing out the agreement, looks up at Melissa, nods, smiles, then stops smiling, looks at the clock, and then introduces the MDR story.

Observations about the Nonverbals of Each Player During the NRS

Gladys: She uses her hands when she is insisting on a point or defending herself (#9–#11.5). She smiles, nods, and leans toward Melissa when she listens to and connects with Melissa (#12, #13).

Melissa: Often uses nonverbals, putting them work in two different ways when the NRS is under construction. She acts "up:" animated, using hands, leaning

forward and backward in her seat, and raising her eyebrows; and she acts “down,” closing her eyes slowly, looking at Paula without an expression on her face and then stealing a glance at Caitlin and returning to gaze at Paula, lowering her voice, eyes, or head, playing with paper under her fingers, and putting her face in her hands. I discovered no clear pattern indicating a relationship between what was said or done in the mediation and when Melissa acted “up” or “down” on these specific occasions.

Robert: He rarely engages nonverbally or verbally ever; other than to make comments such as, “Uh, hmm.” When he is more demonstrative verbally or nonverbally, he speaks insistently or asks a question while making large and dramatic gestures (#7, 8).

Caitlin: She does not move much throughout the entire mediation nor does she demonstrate much physical response. She uses leaning forward to connect with all women: Paula, Melissa, and Gladys. She sits mirroring whatever Robert’s pose is when he is in the room. These are new ways of sitting that she has not positioned herself in prior to his sitting in these ways. As an example, during one mediators’ caucus both Robert and Caitlin sit with one elbow on the table, chin in hand, and other arm on the table.

Caitlin uses eye contact with everyone—watching whoever is talking or whoever she is talking to; except on two occasions when she seems to use the lack of eye contact to cut off the connection with the speaker and/or to reinforce a connection with someone not speaking. For example, in #8, Caitlin speaks to Robert, but looks only at Paula. This is after they both are annoyed¹⁰⁸ at how Robert is pressuring them to engage with his concerns regarding the traditional rules for the structure of a mediation. In segments #9–#11.5, Caitlin occasionally looks at Gladys or Melissa, even while Paula is talking. This may be due to the fact that Paula raises the NRS with Gladys for the first time and does so in front of Melissa. Since both Melissa and Gladys seem uncomfortable engaging with the NRS at that point, it appears that Caitlin is trying to maintain a tie with the

¹⁰⁸This was described by Caitlin and Paula in their Follow up interviews.

participants at a time when they might be feeling distant or frustrated with Paula.¹⁰⁹ Is she trying to communicate anything to Paula by not looking at her while she is narrating the NRS?

Paula: She utilizes more nonverbals than anyone else in the mediation. She uses subtle physical behavior when supporting another person's narrative: Melissa's discussion of the NRS, Caitlin's discussion of the MDR, and Gladys' engagement with a Rules Story. Paula uses dramatic physical behavior when challenging someone's narrative: Robert's insistence on their engaging the discourse of traditional Mediation Rules (MDR) and at one point when she stops Melissa from interrupting Gladys. Paula uses eye contact to both connect with and disconnect from others. For example, in segment #8 when Paula was frustrated at Robert for pushing the agenda of the MDR,¹¹⁰ she only looks only at Caitlin while Robert speaks to them both.

Vocal Changes During the Negative Racialization Story Segments

There are several categories of vocal changes coded in the mediation transcript: pauses and silences, sighs, laughter, changes in pitch/tone/volume, and the use of euphemisms. These categories are taken in turn and described below.

Pauses and Silences

The number of pauses and silences during the Negative Racialization Story are disproportionate to their appearance in the rest of the mediation. About 10 percent of the instances of pausing and silence occur during the NRS out of the entire mediation; despite the fact that the timeframe in which the discussion of the NRS only covers about

¹⁰⁹ Melissa's Follow up interview revealed that she was relieved that the topic was raised but that she did not want to "own" the topic of negative racialization to Gladys. Gladys said in her Follow up interview that she was mad at Paula for raising this topic for discussion.

¹¹⁰ Paula expressed this in her Follow up interview.

4 percent of the total mediation time, and the actual narration of the NRS only covers about 2 percent of the total transcript.

During seven of the fifteen instances involving a discussion of the Negative Racialization Story, there are moments of silence (#2, #4, # 5.5, # 7, #8, #9, #11). There are two particularly long periods of silence: one is after Paula asks Melissa about the racial context surrounding her apartment (#2). The other, (#4), follows Melissa's comment about not knowing who her neighbor is but thinking it she is the Caucasian woman she has seen around. All are silent and then Paula shifts the focus of the discourse away from the NRS to discuss the traditional mediation rules.

The other circumstances when pauses occur during the NRS include when Melissa raises the issue of racial discrimination, when Gladys talks of defending Melissa's housing rights (a Rules Story related to the NRS), and on several occasions when Paula speaks to any of the other players about the need to address the racialized context in which Melissa is functioning—either within the apartment complex (discussed in the joint session) or within the mediation (discussed in the mediators' caucuses).

Sighs

There are two sighs which occur during the mediated intervention and both happen during the NRS. The first sigh comes after Melissa has referred to her neighbors as "these people" and Paula starts to summarize. The next incident occurs after Paula tries to explain to Robert why they need to give Melissa more time since she speaks English as a second language. He does not respond to her and instead, raises the MDR for a second time, saying that the mediators are creating an imbalance of airtime between the participants by giving Melissa more time to talk. Paula sighs loudly when he speaks.

Laughter

There are several moments (7) during the narrative of Negative Racialization when people literally laugh, chuckle, or their voice contains a laughing sound. This is about .3 percent of the overall occurrences in the mediation. While it is not uncommon, then, for people to make laughing sounds, it appears to be an expression of anxiety or awkwardness when it takes place during the discussion of the NRS. A laugh often accompanies the introduction of a topic that appears to be either uncomfortable for the person raising it or is one with which they anticipate others will find it difficult to engage.

In addition, it is noteworthy that only Paula and Melissa laugh during the NRS; Robert, Caitlin, and Gladys do not. Paula only laughed during the NRS segments when she insists to Robert that there is a need to take into account the NRS. While all do laugh throughout the rest of the mediation, Melissa and Paula laugh significantly more often than do the others: Melissa (82x), Paula (79x), Caitlin (36x), Gladys (18x), and Robert (9x). Therefore, it is evident that it is a narrative pattern during the mediation for Melissa and Paula and for the other three players to occasionally laugh. During the NRS, it is a narrative pattern for Melissa and Paula to laugh at times of discomfort for at least some players in the room.

Changes in Pitch, Tone, and Volume of the Voice¹¹¹

On 31 occasions the players demonstrate significant changes in the sounds of their voices during the segments involving the narrative of Negative Racialization. In six of these circumstances Paula's voice alters: a positive tone comes into her voice; it trails off;

¹¹¹Sighs, pauses, and laughter, all previously described, are not included in this section on vocal pitch, tone, and volume changes.

it sounds emphatic and irritated; and it stutters and repeatedly restarts phrases. In 20 circumstances Melissa's voice changes: answering a question with resignation; the pitch climbing higher; speaking in a hushed tone; trailing off; exclaiming; sounding distressed or annoyed; and stuttering. In five instances Gladys' voice alters: stuttering; sounding passionate; and exclaiming. Robert and Caitlin's voices do not change in any noticeable way during the NRS.

It is the two Latina women, Melissa and Paula, whose voices demonstrate more changes during the NRS than do the White women, Gladys and Caitlin. Since Robert does not verbally partake in the discussion of the NRS the data to report on him is to note that his voice doesn't change while others engage in this narrative. These findings do not parallel the vocal patterns of the players in the mediation in its entirety. For example, Caitlin, Gladys, and Paula have approximately the same number of vocal changes over the course of the mediation while Melissa has more than twice as many as these other women.¹¹²

Also, it can be noted that all of Melissa's inflections in her voice which have been mentioned can be characterized as likely reflecting negative feelings. It is also interesting to note that Paula and Melissa experience having their voice trail off as they start to engage with the narrative about Negative Racialization and they do not end up finishing a several of their sentences. When this happens, no one else in the room continues to build on the NRS after their engagement with it fades with the sound of their voice. In addition,

¹¹² Robert has only four vocal changes of significance in the mediation. He is present for the least amount of time during the mediation and says the least even when present in the room.

Paula, Gladys, and Melissa all stutter at one point during the NRS. Paula does it when she is telling Robert that Melissa is the only Latina in her apartment complex. Gladys does so when she first responds to the issue of race which Paula has raised with her. Melissa stutters when she tells Gladys that she feels that moving would “be like discrimination.”

In these examples of the discussions of the NRS each person whose voice is changing likely sees herself in a defensive position as she participates in this narrative. After all, Paula has already raised the NRS with Robert and he had not seemed sympathetic to its discussion. As (the White) apartment manager, Gladys felt challenged to hear that Melissa is racially and ethnically isolated (as well as isolated by other identity factors).¹¹³ This part of the NRS has a lot of narrative coherence—resonating with an historical pattern in U.S. society regarding housing laws and charges of racial discrimination. In other words, the dominant narrative in society regarding racism has historically centered on, among other arenas, access to public accommodations such as housing. Therefore, accusations related to racism raised in the context of an apartment complex’s policies for placement and the enforcement of rules could have sparked concerns for Gladys which were also imbedded in the dominant narrative and not only the local narrative being expressed by Melissa and Paula. In this way it can carry significant weight beyond the immediate conversation (Cobb, 1994) and Gladys indicates this in her Follow up interview.¹¹⁴

¹¹³In her Follow up interview, Gladys stated that this was the case.

¹¹⁴This will be further explored in Chapter Five.

The tension Melissa is likely feeling is evident from her stuttering, reflecting her concern about owning race/ism as an issue in front of Gladys (Follow up interview #1). This is first evident in the mediation when she disowns it in front of Gladys; saying, “I have to say that I didn’t approach the subject that I was Latina. [Laughs]” (#9). In addition, since Melissa had expressed concern that her image in Gladys’ eyes was a factor which motivated her to even participate in the mediation to begin with, she is likely to feel tense when the issue of racial discrimination or other aspects of the NRS are raised. While this comment by Melissa is a bit ambiguous, she is likely concerned that since it looked like Gladys felt attacked when Paula raised the NRS, she wants to show her union with Gladys on the idea that discrimination should and could not take place. Therefore, when Gladys states to Melissa that Federal Fair Housing Laws protect her from needing to move, Melissa stutters her response that she had “told them” that and that to move could be discrimination. Each of these situations, then, perhaps the stutterer feels defensive—sensing an attack or fearing one.

In all but one circumstance, vocal changes seem to reflect a negative feeling by the speaker. The one exception was the positive tone in Paula’s voice as she asked Melissa about her racial context. This might have come from her sense of understanding and identification with Melissa given what Paula imagined was likely to be Melissa’s living situation. It also might have been Paula’s desire to welcome Melissa into the conversation with a knowing sign of affection and/or connection about the topic.¹¹⁵

¹¹⁵ Paula described in her interview that she had assumed that this was likely Melissa’s housing circumstances.

Euphemisms for Direct Comments Related to the NRS

Melissa and Gladys, the participants are the only ones to make use of a variety of words and phrases which seem to insinuate, refer to, or act as euphemisms or replacements for race/ethnicity-related comments.¹¹⁶ Each of the comments and phrases which are used euphemistically are grounded in a narrative context which imply that the speaker is alluding to the NRS in some indirect fashion. Many such circumstances occur when the speaker appears to be attempting to avoid direct reference to negative racialization. Below is a list of some of the comments deemed as euphemisms; they are, however, less clearly demonstrative of this point out of context; (see Appendix L to examine each comment in context).¹¹⁷

Melissa:

“these people” (line 2566)¹¹⁸

“normal young parent with three-year-old girl” (line 2877)

“I walked around the other elderlies are in one spot and families are in another spot! It is very segregated” (line 7829)

“we have to teach them how to be a good neighbor!” (line 8492)

“if I see them outside. I don’t know anybody” (line 8955)

¹¹⁶Paula and Caitlin do not appear to use euphemisms but to engage directly with the NRS and employ markers commonly used for the discussion of the NRS. Robert does not engage with the NRS at any time.

¹¹⁷I have italicized the words which highlight the references to people who are deracialized in these comments yet who have been named in racial categories elsewhere: during the intake, mediation, and/or interviews.

¹¹⁸Paula stated in her interview that when she had heard Melissa use this phrase she had understood it as a euphemism for the racial category of White.

Gladys:

“it would never occur to me that elderly were in an area” (line 7752)

“and those elderly people” (line 7799)

Players’ Strategies Regarding the NRS

In this section, the players’ narrative moves have been categorized, outlining the ways in which they each dealt with the NRS when it was raised or engaged with during the mediation. Key examples were selected to illustrate the findings in order to demonstrate most meaningfully the variety of ways the players used their narrative strategies.

Paula’s Narrative Strategies in Relation to the NRS

1. Asserts need to discuss the NRS
2. Initiates discussion of the NRS
3. Does not engage with the NRS
4. Changes topic to or continues discussion of macro level i.e.: setting/context
5. Changes topic to or participates in topical change to: RS and/or MDR, narrations of dis/connection and other raceless stories
6. “Takes care of” others; specifically the players who do not/do not want to engage in NRS¹¹⁹
7. Pauses and restarts phrases
8. Passionately engages in the NRS

¹¹⁹ Both Robert and Gladys state in their interviews that they felt as though Paula was functioning with her own agenda when she raised the NRS. Gladys made it quite clear that she had thought it was unproductive and had not wanted it to be a topic of conversation at the time. Both stated that they did not feel it was relevant to the mediation discourse; and in this way made it clear that they had not wanted to engage in the NRS during the mediation.

9. Positions problems as outside Gladys' and Melissa's relationship (externalizing them)¹²⁰

10. Shows support for Melissa

11. Changes focus to parenthood/family status

12. Names the NRS as a reality

13. Indirectly frames the NRS as related to the future

14. Uses subtle and dramatic nonverbals and vocal changes

Overall, Paula's relationship with the Story of Negative Racialization is one of interest and support. She often is the initiator of discussions about the NRS and engages in it by demonstrating interest and passion about the need for the story to be discussed. She invites others to join in its development by asking questions and she insists on its importance both by her words and her manner. There are some points, however, when she chooses not to discuss the story and, instead, redirects the conversation to other topics; most often to the context of Melissa's living situation, but sometimes to the Rules Stories.

1. Asserts need to discuss the NRS and Initiates discussion of the NRS

(#7)

Robert: "Now why would you need to talk to Melissa separately...?"

Paula: "Because [pause] Melissa, I mean because the issue of [small pause] umm age and ahh ethnicity was brought up ahh, by Melissa only, I mean in—in the conversation with her. It was brought up only with her. So I'm not so sure yet

¹²⁰This narrative strategy involves articulating the source of a problem as outside of the people involved; for example, blaming a difficulty on a policy not the person implementing it. See Cobb (1994) for a further explanation particularly as it relates to conflict narratives.

[laughs a little] like how comfortable she's going to feel about not saying anything with regard to that."

2. Initiates discussion of the NRS

(#2)

Paula: [Speaking to Melissa] "I have just one more question. Ahh, you just said that you live in the middle of elderly people. I also was wondering if you're also the only umm, Latin American or maybe Puerto Rican descent person [said with a smile in her voice]¹²¹ person in this area?"

(#6)

Paula: [Speaking to Robert] "She is—she—what she says is that she is the only ahh Latina in that area. It seems that the other people are elder—elderly White people."

(#9)

Paula: [Speaking to Gladys] "It is my understanding, and correct me if I am wrong, that ahh, Melissa is living in umm—surrounded by ahh neighbors who are elderly people and ahh, elderly White people. And she's a single mother, young, student, umm, and she's a Latina. Umm, [small pause] I'm wondering if this is the best location for someone, you know, who has a family."

Does not engage with the NRS

(#1)

Melissa: "Everything bothers these people."

Paula does not engage the NRS potential, saying instead: "Alright. Melissa, let me see if I got all the facts that you're talking about. I heard you saying that, I mean, first there is a problem with this neighbor who basically it's very uncomfortable with noise and bangs on the door and has sworn through the door—[laughs] through the walls.

¹²¹The phrase "smile in her voice" refers to the sounds of a warmth and positive connection.

And has, okay, and has also called the cops on you. When, when did you move first to this place?"

(#2)

After Paula has asked Melissa if she is the only Latina, Melissa says: "Um, hmm. I am. I—I didn't even wanna go there. But in the first letter I wrote I was like, I'm not even gonna go into the fact that I am single mother, Latino, young parent, student in this area because then I would be saying that you guys are racist."

Paula does not, then, engage with the NRS. She does not speak for 154 more lines in the transcript and when she does she says: "[To Caitlin] Do you have any more questions? [To Melissa:] Ahh, Melissa what do you hope to get through this mediation?"

(#2)

Melissa: "You know, I don't them—a—to accuse them or something that I'm not really sure about. But that's a fact it's not my fault for me living there because the administration put me to live there. And maybe they didn't wanna [pause] discriminate against me."

Paula says nothing.

(#11)

Gladys: "Those are federal fair housing laws and they changed a long time ago and those elderly people who live there are going to have to get along with you and your daughter. Or [small pause] they can move! More than you can move."

Paula says nothing.

(#12)

Melissa: "but sometimes that's discrimination! We have to teach them [laughs] how to be a good neighbor! [Laughs]"

Paula says nothing.

3. Changes topic to or continues discussion of macro level i.e.: setting/context and Changes topic to or participates in topical change to: RS and/or MDR, narrative focused on dis/connection, and/or stories which are raceless

(#2)

After Paula has asked Melissa if she is the only Latina, Melissa says yes and then describes the racial setting, the isolation of her and her daughter, her concern about accusing the administration of racism, and her awareness of the racial context.

Paula: "I was wondering if—if it is possible to consider that, ahh, you be moved to a place where there are other young [pause] people? Families—students live there". This move redirects the discussion towards a raceless narrative but it continues the focus on the larger context of Melissa's housing situation.

(#4)

After Melissa raises the NRS and Caitlin concentrates on the disconnection narrative which intersects with it, Paula changes the subject and turns to the story of MDR and the next steps in the mediation process.

Melissa: "If I seen this lady it's like I don't see anybody because I don't know her...I think that is like a pretty heavy woman, you know what I mean. She's Caucasian. I think that's the one. I'm assuming."

Caitlin: "Uh hmm. But you don't even know her."

Melissa: "I don't even"

Caitlin: "that's part of the problem"

Melissa: "uh, hmm."

Caitlin: "Yeah, okay. [To Paula] Anything else, Paula?"

Paula: "Hmm. Yeah. Umm, what parts of what we talked about till now umm would you like to ask to share with Gladys? [Long pause.] Or are there parts that you don't want to share. [Laughs.]"

(#5.5)

In this example from a mediators' caucus, Paula raises the NRS as relevant but when Caitlin changes the focus to Melissa's disconnection seemingly due to age and then introduces the MDR story, Paula follows suit.

Paula: "She's the only ahh person of color, single mother..."

Caitlin: "Those are all...important issues umm and the—I think and we can talk when we talk to Melissa again maybe come back to it, I think what she was saying about the discrimination issue I think what she was saying was, that whoever is responsible for housing is afraid they'll be accused of discrimination if they boot her out."

Paula: "Yup."

Caitlin: "Umm, it wasn't clear to me...if there are other options for her. If this is the housing that she's been given and that's—you know she...chose and it happens that there are a lot of elderly people and she's pretty isolated there. Umm [voice trails off]"

Paula: "This is an apartment complex...where students live so I don't know if she was put there."

Caitlin: "...maybe in this first session with Gladys we should set this aside."

Paula: "Yup."

Caitlin: "...we have an opportunity to then bring this back again with Gladys later, not this first time."

Paula: "Okay."

(#6)

In a mediators' caucus, Paula briefly describes Melissa's context to Robert: "She is the only ahh Latina in that area and she's a single mother, she has a three-year-old. And she's a student. It seems that the other people are elder—elderly White people. So, there is this neighbor who complains about her all the time and about the child. Running or the TV or whatever. And this neighbor has had problems with other neighbors in the past and has moved out. [Laughs] Umm, I asked her if she would consider moving to

another apartment in the same complex where there are other families. But she said—she was ambiguous about it...but she's not living comfortably." Again, Paula, in her retelling of the story, redirects it towards a raceless discussion of the context—framing the narrative towards the topics of dis/connection and family status; and then focuses it on the individualized circumstances of the deracialized relationship with this specific neighbor.

(#7 and #8)

Robert introduces the traditional mediation guidelines of paying attention to managing time and the structure of the mediation. He is concerned that the mediation is taking too long and that an additional private session with Melissa will feed the airtime imbalance and might prolong their getting to the final structural piece which is the joint session at the end. In these ways he is reminding Paula and Caitlin of the values of symmetry and expediency for reaching an agreement. When Robert introduces the MDR storyline, Paula struggles briefly against the loss of the NRS and then engages with the MDR.

Robert: "Now why would you need to talk to Melissa separately?"

Paula: "Because [pause] Melissa, I mean because the issue of [small pause] umm age and ahh ethnicity was brought up ahh, by Melissa only, I mean in—in the conversation with her. I mean the three of us talked about it. It's not just her. It was brought up only with her. So, I'm not so sure yet [laughs a little] like how comfortable she's going to feel about not saying anything with regard to that. I mean I would like to convey the message that she's been in a very positive light by the manager [voice sounds insistent or maybe even a little irritated—emphatic] before having them together. The manager has not said any of this to her. And I think it is important in addressing that part. That doesn't mean that the context in which she lives is a problem. Umm, but that would be my reason. I don't know do you have any suggestions?" Here Paula introduces the NRS, struggling to convince Robert of its importance, and then turns to engage with the MDR storyline. This pattern of struggle and engagement continues.

Robert: "I also want to—just want you to be aware of airtime...And if you bring Melissa back again is that more time?"

Paula: "Well, the problem is that Melissa"

[Pause]

Caitlin: "but that's right"

Paula: "it's that Melissa's ahh first language is not English. And [laughs] a—we have to clarify a lot! With her. Several things she was talking about. So that took time. Gladys was, you know, very clear and articulate. You know, it's like, all that's—that's why it has—it took less time. Absolutely. I'm aware of that."

Robert: "So, to be aware of that so if you are continuing"

[Paula sighs loudly and then laughs]

Robert: "to build a difference"

Paula: [says something unintelligible].

Robert: "is it better for them to be together as you do this, versus needing—you see what I mean?"

Paula: "Yeah, I see what you mean. Is it"

Robert: "[simultaneously] Or what—what's [knocks on table 1x]—what's needed [knocks on table 4x]—what's most needed now [knocks 1x in sync with 'now']? As we move on?"

Caitlin: "I agree with Paula—what's—I think—what's most needed now is to have another conversation with Melissa."

Robert: "Uh hmm."

Paula: "A short one."

Caitlin: "A short one and we can say that. We'll set the—and that what you're trying to tell us is we need to be careful about how we're balancing our airtime"

Robert: "okay" [Robert continues throughout Caitlin and Paula's comments to say, "Uh hmm."]

Caitlin: "with both of them. And so we can be really clear with Melissa about that. Umm, I mean, just—just that we have a—a little bit of time we wanna spend"

Paula: "a short time"

Caitlin: "a little extra time"

Paula: "yeah"

Caitlin: "before we bring them both together. That we're—that"

Robert: "And we're also clear on our ending time today?"

Paula: "We can finish today. I don't know when but we can finish today. [Laughs]"

Robert: "No, I need to ask you"

Caitlin: "at five o'clock"

Robert: "what time are you planning to stop? [Knocks finger on the table for emphasis]"

Paula: "Ahh, it's four-thirty..."

The discussion continues from there focusing only on the MDR, particularly on the ending time and then to talk of agreement building in the upcoming joint session. By this point the NRS has disappeared and all three are engaged in the MDR story.

(#10)

After Paula introduces the NRS to Gladys, stating that Melissa is surrounded by elderly White people, Gladys is quite uncomfortable and as she responds she deracializes the conversation by not mentioning the race of those living around Melissa. Melissa interrupts Gladys and engages in the NRS saying that it does reflect her reality. At that moment Paula makes a significant decision: she stops Melissa from interrupting Gladys and protects Gladys' "turn" talking. In this way, she choose the MDR story over the

NRS; demonstrating a commitment to symmetrical turntaking and to valuing the traditional approach to the mediation process over the content-driven focus on process. In other words, one way to look at this is that she prioritizes giving Gladys her “turn” to talk without interruptions rather than making room, at this particular point, for the NRS to be re-asserted when it is disappearing from the conversation.

Paula: “Melissa is living in umm—surrounded by...ahh, elderly White people...”
(This excerpt begins as NRS segment #9)

Gladys: “It would never occur to me that elderly were in an area or anything.”

Melissa: “It does! It’s like that [slight laughing sound in voice] I [unintelligible comment]”

Gladys: “So, I won’t do that! I won’t participate in that!”

Melissa: “That’s what I’ve told them!”

Caitlin: “Um hmm [simultaneously]

Melissa: “Like I know that it’s like—it’s”

Paula: ““Cuse me! Umm”

Melissa: “sorry.”

Paula: “hold on a second ‘cus I want you [To Gladys] to finish your thought. [Slight laughing sound in voice].”

Melissa: “Yeah.”

Paula: “And then, you [to Melissa] go—you can ahead.”

(#11.5)

After Gladys describes the housing assignment policies at Meadowlark

Apartments, Melissa responds with the NRS.

Melissa: “It is very segregated. When I was placed there I never thought that, you know, it was—it was gonna be a problem. But then when you live there that’s another story!”

Paula: "I'm wondering if umm, any of you, knowing that this is not a choice, it have not been chosen by any of you [laughs] and as I said this is the setting. It's just the way it is right now. Umm, I just wanna ask you if you have any ideas about what you wanna do about this? Basically what I want to do is like open it up to see if you have any thoughts or alternatives? To address the setting [laughing a little in voice.]"

Here, instead of following up on the NRS raised by Melissa, Paula responds to Gladys' storyline about the rules—policies and procedures—of Meadowlark which dictate who lives where according to the non-race-related criteria of first-come first-served and the number of people in a household.

(#12)

After Melissa's emotional declaration that discrimination is occurring and that it is hard for her to name it, Paula shifts the topic; first, to the individualized and specific relationship with the nextwall neighbor and the plans for a mediation between Melissa and her (a deracialized story about the future), and next, to a discussion about time and the writing an agreement (MDR).

Melissa: "You know that sometimes, it's—it's like hard to say it. But sometimes that's discrimination! I don't like to be a victim. I hate it! But it is. You know? It's a reality, you know? And I'm like, 'We need to do something.' You know? We have to teach them [laughs] to be a good neighbor! [Laughs] Why can't we offer like a workshop"

Paula: "It see—it seems very stressful. And hopefully—hopefully this other mediation will address, you know, these issues with that person in particular. You know, since she's the one [laughing sound in voice] who's umm, you know, been involved in this con—with this conflict. So, you know, do raise it there. 'Cus it is very important. Umm, in the interests of time [laughs] already. Umm, I just wanted to read to you, ahh, what are—my notes about what you agreed to see if we can ahh write it down."

4. "Takes care of" others; specifically the players who do not/do not want to engage in NRS

(#7 and #8)

When Robert introduces MDR, Paula struggles briefly against the loss of the NRS and then discusses MDR.¹²² In this case, Paula responds to Robert's concern about the length of the mediation and the balancing of airtime between Gladys and Melissa. She agrees to make the private session with Melissa short despite the fact that she and Caitlin would rather explore the NRS with Melissa more in depth.¹²³

(#10 and #11.5)

Both these situations occur directly after Paula raises the NRS to Gladys who redirects the conversation to the RS. In these cases, Paula follows Gladys' focus on the narrative about Meadowlark's policies (RS). Paula protects Gladys' storytelling about the RS and by quickly intervening when Melissa interrupts Gladys. Paula engages the MDR story when she tells Melissa that she needs to wait her turn.

(#11.5)

Following Gladys' comments on the rules at Meadowlark, Paula shows support for Gladys' engagement with the RS by framing the circumstances of Melissa's living arrangement as not anyone's fault, but rather a result of these policies. When Gladys responds abruptly to her, Paula encourages Gladys to talk more about the RS:

Paula: "I'm wondering if umm,...knowing that this is not a choice...if you have any thoughts or alternatives? To address the setting. [Laughing a little in voice.]"

Gladys: "[Simultaneously] We have policies"

¹²² See the transcript example which can be found under the description of Paula's Narrative Strategies iv) and v).

¹²³ Both Paula and Caitlin make clear in their interviews that they had wanted more time with Melissa to pursue this storyline and that they had felt great pressure from Robert to alter this plan to fit his view of the appropriate timeframe.

Paula: “sorry”

Gladys: “ahh, we have policies. So, I can tell you some of the policies.”

Paula: “Sure.”

5. Pauses and restarts phrases

Pausing and restarting phrases is commonly found in Paula’s communication pattern throughout the mediation.¹²⁴ It also happens when she engages with the NRS.

(#6)

Paula: “She is—she—what she says is that she is the only ahh Latina in that area and she’s a single mother, she has a three-year-old. And she’s a student. It seems that the other people are elder—elderly White people.”

(#7)

Paula: “Because [pause] Melissa, I mean because the issue of [small pause] umm age and ahh ethnicity was brought up ahh, by Melissa only, I mean in—in conversation with her.”

(#8)

When Robert points out the imbalance in airtime, Paula responds that that had occurred because Gladys is a native English speaker:

Paula: “You know, it’s like, all th—that’s why it has—it took less time.”

6. Passionately engages in the NRS

(#7, #8)

Robert challenges Paula about why she wants to bring Melissa in for a second private session instead of preceding directly into a joint session with both Melissa and Gladys.

¹²⁴This communication pattern did not appear typical for Paula during either of her two interviews.

Paula: "Because [pause] Melissa, I mean because the issue of [small pause] umm age and ahh ethnicity was brought up ahh, by Melissa only, I mean in—in conversation with her. I mean the three of us talked about it. It's not just her. It was brought up only with her. So, I'm not so sure yet [laughs a little] like how comfortable she's going to feel about not saying anything with regard to that. I mean I would like to convey the message that she's been in a very positive light by the manager [voice sounds insistent or maybe even a little irritated—emphatic] before having them together."

7. Positions problems as outside Gladys' and Melissa's relationship (externalizing them)

(#11.5)

Melissa: "It is very segregated...when I was placed there I never thought that, you know, it was—it was gonna be a problem. But then when you live there that's another story!"

Paula: "I'm wondering if umm, any of you, knowing that this is not a choice, it have not been chosen by any of you [laughs] and as I said this is the setting. It's just the way it is right now."

8. Shows support for Melissa

(#12)

Melissa: "I been like, this whole stuff have been like affected me."

Paula: "It see—it seems very stressful."

9. Changes focus to parenthood/family status

(#9)

Paula: "Melissa is living in umm—surrounded by ahh neighbors who are elderly people and ahh, elderly White people. And she's a single mother, young student, umm, and she's a Latina. Umm, [small pause] I'm wondering if this is the best location for someone, you know, who has a family."

10. Names the NRS as a reality

(#5.5)

Paula: "I'm not sure that, you know, an undergraduate student, young, with a child it's—you know, this is the best place for her and for them...she's the only ahh person of color, single mother...in this place."

11. Indirectly frames the NRS as related to the future

(#11.5)

Melissa: “It is very segregated...when I was placed there I never thought that, you know, it was—it was gonna be a problem. But then when you live there that’s another story!”

Paula: “I’m wondering if umm, any of you, knowing that this is not a choice, it have not been chosen by any of you [laughs] and as I said this is the setting. It’s just the way it is right now. Umm, I just wanna ask you if you have any ideas about what you wanna do about this?...Basically what I want to do is like open it up to see if you have any thoughts or alternatives? To address the setting [laughing a little in voice.]”

12. Uses subtle and dramatic nonverbals and vocal changes

(#2)

Paula: “I also was wondering if you’re also the only umm, Latina American or maybe Puerto Rican descent person [said with a smile in her voice] person in this area?”

(#8)

Paula: “Well, the problem is that Melissa”

[Pause]

Paula: “it’s that Melissa’s ahh first language is not English. And [laughs] a—we have to clarify a lot! With her. Several things she was talking about. So that took time. Gladys was, you know, very clear and articulate. You know, it’s like, all th—that’s why it has—it took less time.” Paula laughs and stutters while she speaks. Then when Robert follows these comments and insists that she and Caitlin pay attention to the MDR, Paula pulls in her breath, lifts her arms, gestures, moves her shoulders, sits erect, for a long period looks for away from Robert while he speaks and instead looks at Caitlin, and then sighs loudly.

An examination of the narrative strategies Paula uses with regards to the NRS reveals six overall patterns. Paula initiates and engages with the NRS, seeing its importance and trying to facilitate its elaboration by others. She demonstrates emotion when raising it, both in her attempts to engage others in discussing it and when others

seek to divert the conversation away. This emotion appears in the form of passionate speech inflection, the re-starting phrases, and various forms of non-verbal behavior. Paula also connects the discussion of the NRS to conversations about the entire context of Melissa's living conditions; this serves as both an expansion of the NRS and also results in diversion away from it. She demonstrates support for others during the NRS and this also serves to both facilitate the NRS at times (when supporting Melissa's statements at certain points), while undermining it at others (when players avoid engaging in it). The final pattern observed was that she, on occasion, engaged with or initiated the Rules Stories.

Caitlin's Narrative Strategies in Relation to the NRS

1. Does not engage with the NRS
2. Is ambiguous/gives indirect support for the NRS
3. Responds with MDR story
4. Frames as a problem which traps Melissa: the NRS intertwined with the RS
5. Eventually re/directs focus onto needs
6. Re/directs focus onto feelings
7. Re/directs focus onto relationship/dis/connection concerns
8. Changes focus to parenthood theme
9. Eventually discusses something besides NRS directly; thereby creating a deracialized or a raceless narrative¹²⁵
10. Shows support for Melissa

¹²⁵ A deracialized narrative is one in which elements of racialization or race that had been discussed are no longer part of the discourse. A raceless narrative is one in which there are no elements pointing towards or referring to racialization or race.

11. Positions problems as outside Gladys' and Melissa's relationship (externalizing them)
12. "Takes care of" others; specifically the players who do not/do not want to engage in the NRS xiii) Uses subtle nonverbals

The narrative strategies Caitlin uses during the NRS predominantly provide assistance to the players for discussing topics other than negative racialization. She most often facilitates conversations about aspects of Melissa's (and, at times, Gladys') experiences which are related to the NRS but are discussed in a deracialized discourse.¹²⁶ What follows is a presentation of examples of all her narrative strategies during the NRS.

1. Does not engage with the NRS.

Caitlin often does not respond to the NRS, either verbally and nonverbally, other than to say "uh hmm." Which player is discussing the NRS does not appear to influence this choice not to respond directly to it; since out of eight times (#2, 5, 7, 8, 9, 10, 11, 11.5, 12), four times Paula is discussing the NRS, three times Melissa does, and twice it is Gladys who discusses it.

2. Is ambiguous/gives indirect support for the NRS.

On two occasions (#5.5, 8) she does offer support to the NRS, albeit in ambiguous or indirect ways. Both times Paula raises the NRS in a mediators' caucus and Caitlin demonstrates an interest in talking about it further.¹²⁷ Her response is described as indirect or ambiguous because she did not engage in the NRS directly but demonstrates

¹²⁶ She sometimes also focuses on a deracialized discourse about the mediation process.

¹²⁷ What is interesting is that in the Follow up interviews Caitlin consistently articulates how important the narration of the NRS was and how it was shortchanged and needed far more attention. This is analyzed further in Chapter Five.

indirect support for the need to discuss the NRS in the future. At these moments, she does not engage in the content of the Negative Racialization Story, but turns to discuss the rules of the mediation process, seemingly to make room for discussions of the NRS.

(#8)

Robert points out the need to pay attention to providing symmetry in the airtime allotted to each participant, Paula responds by pointing out that they need to see Melissa a second time privately because they had only raised the issues of age and ethnicity with Melissa alone and that:

Paula: "it's that Melissa's ahh first language is not English. And [laughs] a—we have to clarify a lot! With her. Several things she was talking about."

Caitlin agrees with Paula about the need for an additional private caucus with Melissa and she also states her agreement with Robert about the need to be careful about airtime:

Caitlin: "I think what's most—I agree with Paula—what's—I think—what's most needed now is to have another conversation with Melissa"

Paula: "a short one."

Caitlin: "[Simultaneously] a short one and we can say that. We'll set the—and that what you're trying to tell us is we need to be careful about how we're balancing our time with both of them. And so we can be really clear with Melissa about that. Umm, I mean, just—just that we have a—a little bit of time we wanna spend a little extra time before we bring them both together."

3. Responds with MDR story.

Caitlin twice advocated for sticking with traditional notions of the mediation rules to balance airtime and to protect individual storytelling for each participant via 'uncontaminated' private sessions—those that do not include the introduction of the other participant's story (#5.5, 8).

(#5.5)

Paula: "She's the only ahh person of color, single mother..."

Caitlin: "Those are all...important issues umm and the—I think and we can talk when we talk to Melissa again maybe come back to it, I think what she was saying about the discrimination issue I think what she was saying was, that whoever is responsible for housing is afraid they'll be accused of discrimination if they boot her out."

Paula: "Yup."

Caitlin: "Umm, it wasn't clear to me...if there are other options for her. If this is the housing that she's been given and that's—you know she...chose and it happens that there are a lot of elderly people and she's pretty isolated there. Umm [voice trails off]"

Paula: "This is an apartment complex...where students live so I don't know if she was put there."

Caitlin: "...maybe in this first session with Gladys we should set this aside."

4. Frames as a problem which traps Melissa: the NRS intertwined with the RS.

During two episodes when the NRS is raised, Caitlin frames the NRS as intertwined with the RS and as a problem which traps Melissa (#3, 5.5). At both junctures Caitlin acknowledges that Melissa has concerns that the Meadowlark administration might have reservations about discrimination (NRS and RS). This concern is what Caitlin then frames as a barrier for Melissa. In both cases Caitlin does this after someone else has raised the potential benefits of Melissa moving into a different apartment:

(#3)

Melissa: "I would love to move from there...But then, [voice drops to a hush] wouldn't they like think that's discrimination? You know what I mean?"

Paula: "Who would think that is discrimination?"

Melissa: "That maybe the like management or something?"

Caitlin: "Does it feel like that to you? That it would be discrimination to move? If that's the decision?"

Melissa: "Umm. For my point of view, I'm like, 'Shh.'"

Paula: "Okay [quietly to Caitlin]."

Melissa: "[Simultaneously to Paula speaking] It's like [voice trails off]."

Caitlin: "I think that—that's umm"

Melissa: "it is very difficult to—to see"

Caitlin: "the reason that I—I think that I am also interested in the same question and not so much what not that do you wanna move if that's the solution for mediation or for—for down the road; but you yourself with your daughter. Are you happy in this apartment? Would you like to stay there and find a way to work things out?"

Melissa: "[Simultaneously] oh, we're not happy. Definitely we're not happy in the apartment."

Paula: "You're not?"

Caitlin: "And so what would it take to make you happy?"

Melissa: "Uh huh."

Caitlin: "What would it take to make that place feel like your home again: to make it your home so that you can be there with your daughter, so she can watch the cartoons, so you can get your studying done? What would it take for you to feel like you are staying there?"

Caitlin appears to believe that Melissa sees the Meadowlark management's concerns about discrimination as the barrier to feeling at ease imagining moving. Therefore, it seems to be in response to this barrier and Melissa's discomfort envisioning moving, that Caitlin redirects the storytelling. She focuses attention on what Melissa would need to feel comfortable staying in the apartment where she presently resides.

5. Re/directs focus onto needs

Caitlin shifts away from the NRS to a focus on Melissa's needs (#3, 8) and indirectly on Gladys' needs (#5.5, 8) while framing the needs and questions about them in a deracialized way.

(#3)

Paula: "Who would think that is discrimination?"

Melissa: "that maybe the like management or something?"

Caitlin: "Does it feel like that to you? That it would be discrimination to move? If that's the decision?"

Melissa: "Umm. For my point of view, I'm like, 'Shh.'"

Paula: "Okay [quietly to Caitlin]"

Melissa: "[simultaneously to Paula speaking] It's like [voice trails off]."

Caitlin: "I think that—that umm the reason that I—I think that I am also interested in the same question and not so much what not that do you wanna move if that's the solution for mediation or for—for down the road; but you yourself with your daughter. Are you happy in this apartment? Would you like to stay there and find a way to work things out?"

Melissa: "[Simultaneously] oh, we're not happy. Definitely we're not happy in the apartment."

Paula: "You're not?"

Caitlin: "and so what would it take to make you happy?"

Melissa: "Uh huh."

Caitlin: "What would it take to make that place feel like your home again: to make it your home so that you can be there with your daughter, so she can watch the cartoons, so you can get your studying done? What would it take for you to feel like you are staying there?"

6. Re/directs focus onto feelings

After the NRS has been introduced into the discussion, Caitlin re/directs attention onto feelings on several occasions (#2, 3, 5.5, 11.5).

(#2)

Caitlin: "That's really hard, isn't it? When you're tryin to be a parent and a student and manage things and it sounds like you—you—you have some real sensitivity also to the fact that people without little kids have a different [unintelligible]."

(#3)

Caitlin: "Are you happy in this apartment?"

7. Re/directs focus onto relationship/connection concerns

(#4)

Melissa: "I told you I'm not even sure if I think—I think that is like a pretty heavy woman, you know what I mean? She's Caucasian. I think that's the one. I'm assuming."

Caitlin: "Uh hmm. But you don't even know her."

Melissa: "I don't even"

Caitlin: "that's part of the problem."

Melissa: "Uh, hmm."

Caitlin: "Yeah, Okay."

8. Changes focus to parenthood theme

(#2)

Melissa: "I'm not even gonna go into the fact that I am single mother, Latino, young parent, student in this area because then I would be saying that you guys are racist. And I don't wanna go there because then I am assuming you guys are racist but then—I guess I—maybe if it was a Caucasian woman, too, single mother, young, parent maybe, I guess, maybe they will act the same way towards her [ends sentence with question mark in her voice]? You know, I don't them—a—to accuse them or something that I'm not really sure about. But that's a fact that I'm the only Latina there. I'm the only one who has a kid [laughs a little]. I'm the only twenty-two year old there [continues to laugh a little, voice is climbing the scale in pitch as she finishes each sentence]"

Caitlin: "the only single mother"

Melissa: “the only single mother [suddenly her voice returns to normal pitch] in that area.”

Caitlin: “Uh, hum.”

Melissa: “...it’s not my fault for me living there because the administration put me to live there. And maybe they didn’t wanna [pause] discriminate again me. But then, I understand the fact that these elderly people need their peace, too. You know what I mean?...But I understand that they may—elderly people may feel uncomfortable listening to a kid running up and down all day.”

Caitlin: “Uh, hum. Uh, hum. That’s really hard, isn’t it? When you’re trying to be a parent and a student and manage things and it sounds like you—you—you have some real sensitivity also to the fact that people without little kids have”

Melissa: “[simultaneously] of course!”

9. Eventually discusses something besides NRS directly; thereby creating a deracialized or a raceless narrative¹²⁸

At times, Caitlin participates in the discourse without making reference to the NRS even when it has been under construction (#2, 4, 8, 11.5).

(#11.5: excerpts)

Melissa: “You know, this is amazing! But it—it is very segregated.”

Caitlin: “Uh hmm, uh.”

Paula: “Well, assuming that it happened to be like that because this is like ahh, the wa—there is a waiting list and whoever’s there, gets there...”

Gladys: “We have policies...Melissa, you have every right to live right where you live and [small pause] you—you can’t move.”

Melissa: “Uh hmm. [Slight laughing sound in voice] I know.”

¹²⁸ I use the word eventually to modify this strategy because Caitlin sometimes engages in the conversation right at the point when the NRS is under construction while, at other times, she joins the discourse and initiates or supports the narrative of another player who is diverting the conversation away from the NRS.

Gladys: “[Simultaneously] Because that would be wrong. Umm, and then, you also have to live there happily. But you also have transfer policies. And you can’t move! [Small laugh] Because our transfer policy doesn’t allow you to move...So, you need to make sure that you realize that you have every right to live there. And that their problems are their problems and not yours.”

Melissa: Uh hmm.”

Caitlin: “Does that help to hear that from Gladys?”

Melissa: “[Simultaneously with the end of Caitlin’s sentence] Oh Yeah! Yeah.”

Caitlin: “[Simultaneously with the end of Melissa’s sentence] Yeah, okay. And so then, I just—I—I’m sorry, I just want to say that it wasn’t Melissa who did not ask to—in any of our conversations she wasn’t saying, ‘I wanna move.’ And part of what we wer—I think, our wanting to help you understand and us understand is what are all the options here. Both for you and for Melissa.”

Caitlin participates in the deracialization of the discourse in the above example (#11.5) as well as the one that follows—NRS segment #5.5—where she also directs it away from the NRS but only after first acknowledging the need to talk about negative racialization. This occurs when she engages the NRS and then guides the conversation towards speaking about the management of the narrative process.

(#5.5)

In their mediators’ caucus, when Paula points out that Melissa is the only Latina and single mother in her building Caitlin says this is important to discuss—but that this should be done later with Melissa and not in their first private meeting with Gladys.

Paula: “Ahh, and then she’s the only ahh person of color, single mother and she said, in this place. Which is another concern. Umm, so I mean, I guess [pause] those are issues that we should address [voice trails off].”

Caitlin: “[Begins simultaneously] those are all—I think those are all really important issues umm and the—I think and we can talk when we talk to Melissa again maybe come back to it, I think what she was saying about the discrimination issue I think what she was saying was, that whoever is responsible for housing is afraid they’ll be accused of discrimination if they boot her out. Umm, it wasn’t clear to me if—how—you know—if there are any other options

for her...maybe in this first session with Gladys we should set this aside—
Melissa's story, everything that she said and hear as much as we can from Gladys.
And not introduce anything in this first session about the neighbor or anything.
Does that make sense?"

10. Shows support for Melissa

(#2)

Caitlin: "That's really hard, isn't it? When you're trying to be a parent and a student and manage things and it sounds like you—you—have some real sensitivity also to the fact that people without little kids have..."

11. Positions problems as outside Gladys' and Melissa's relationship (externalizing them)

(#5.5)

Caitlin: "I think what she [Melissa] was saying about the discrimination issue I think what she was saying was, that whoever is responsible for housing is afraid they'll be accused of discrimination if they boot her out. Umm, it wasn't clear to me if—how—you know—if there are any other options for her. If this is the housing that she's been given and that's—you know and she's got this lease for the next year and umm all those things. So, all of that stuff we have to clarify. Or whether Melissa chose—you know she was looking for apartments this is the one she chose and it happens that there are a lot of elderly people and she's pretty isolated there. Umm [voice trails off]"

12. "Takes care of" others; specifically the players who do not/do not want to engage in the NRS

(#8)

Robert raises the question of balancing airtime and when Paula introduces the NRS, Caitlin first supports Robert's point. Only after having done that does she support Paula's points which involve the NRS. While Caitlin speaks in support of making time with Melissa to discuss the NRS (which had just been put on the table moments before in NRS segment #7), she continues to weave into her comments support for the MDR which Robert introduced.

Robert: "I also want to—just want you to be aware of airtime...And if you bring Melissa back again is that more time?"

Paula: "Well, the problem is it that Melissa"

Pause

Caitlin: "but that's right" [referring to Robert's point about airtime]

Paula: "it's that Melissa's ahh first language is not English."

[27 lines of dialogue ensue as Robert and Paula struggle over their points.]

Caitlin: "I think what's most—I agree with Paula—what's—I think—what's most needed now is to have another conversation with Melissa."

Robert: "Uh hmm."

Paula: "A short one."

Robert: "Uh hmm."

Caitlin: "[Simultaneously] a short one and we can say that. We'll set the—and that what you're trying to tell us is we need to be careful about how we're balancing our time with both of them. And so we can be really clear

Robert: "[simultaneously] uh hmm"

Caitlin: "with Melissa about that. Umm, I mean, just—just that we have a—a little bit of time we wanna spend"

Paula: "[simultaneously] a short time"

Caitlin: "a little extra time"

Robert: "[simultaneously] uh hmm, uh hmm"

Paula: "[simultaneously] yeah"

Caitlin: "before we bring them both together."

13. Uses subtle nonverbals

Caitlin demonstrates very subtle nonverbals as signs of support or connection for a speaker and her/his story. She leans forward when women speak and regularly maintains eye contact with whoever is speaking.

Overall, in looking at the narrative strategies Caitlin uses during the NRS most of her moves are concentrated upon supporting others but not by overtly engaging with or encouraging the discussion of the NRS. For example, she regularly facilitates the discussion of Melissa's concerns about disconnection, parenthood, her feelings, and her needs but without (on almost all occasions) directly referring to Melissa's concerns about negative racialization. She also demonstrates support for conversations about Melissa and Gladys' relationship and for the discourse of those who (sometimes clearly out of discomfort) divert the conversation away from the NRS. In fact, her most common strategy is to eventually engage in a narrative that is deracialized/raceless which occurs approximately 70 percent of the time when the Negative Racialization Story is discussed in front of her. Despite this, there is also a small pattern of indirect or ambiguous support for the NRS. One other pattern evident from the examination of Caitlin's narrative moves is that she engages with rules-based narratives very little during the NRS.¹²⁹

Robert's Narrative Strategies in Relation to the NRS

1. Eventually responds with focus on symmetry and the structure of the mediation (MDR story)
2. Does not engage with the NRS
3. Eventually focuses on time (MDR story)
4. Eventually is directive by telling Paula and Caitlin what to do
5. Eventually directly discusses something besides NRS; thereby creating a deracialized or a raceless narrative
6. Responds with dramatic nonverbals

¹²⁹This stands out in comparison to the other players and is explored further in Chapter Five.

Robert does not verbal engage in the discourse on Negative Racialization at any time. There are three incidences (#6, 7, 8) when Robert is present at a time when the NRS is raised and he typically listens and is either quiet or makes comments such as “uh, hmm.” Eventually, in each circumstance after the topic has been changed away from the NRS by the speaker, (who is Paula each time), he responds with the MDR. This occurs six times during these three incidences: as he requires that the mediators pay attention to symmetry in airtime between the participants (gesturing with his hands in a dramatic fashion) and as he discusses the structure of the mediation by referring to the timeframe and the use of private caucuses. Robert’s use of dramatic nonverbals stands out when he talks about the need for an ending time and for determining “what is most needed now? As we move on?” (#8). In this NRS segment, he presses the MDR by knocking on the table six times.

(#7, #8)

Robert: “Now why would you need to talk to Melissa separately instead of having them both come in together to share what each other said?”

Pause: Pregnant

Paula: “Because [pause] Melissa, I mean because the issue of [small pause] umm age and ahh ethnicity was brought up ahh, by Melissa only, I mean in—in the conversation with her. I mean the three of us talked about it. It’s not just her. It was brought up only with her. So, I’m not so sure yet [laughs a little] like how comfortable she’s going to feel about not saying anything with regard to that. I mean I would like to convey the message that she’s been in a very positive light by the manager [voice sounds insistent or maybe even a little irritated—emphatic] before having them together...”

[Robert makes “uh hmm” comments throughout.]

Robert: “I also want to—just want you to be aware of airtime. How much you’ve given each one in private caucuses. Have you been aware of how much time Melissa’s gotten versus Gladys? And if you bring Melissa back again is that more time?”

Paula: “[Simultaneously to Robert’s ending words] Well, the problem is that Melissa”

Silence: pause

Caitlin: “but that’s right”

Paula: “it’s that Melissa’ ahh first language is not English. And [laughs] a—we have to clarify a lot! With her. Several things she was talking about. So that took time. Gladys was, you know, very clear and articulate. You know, it’s like, all th—that’s why it has—it took less time. Absolutely. I’m aware of that”

[Robert makes “uh hmm” comments throughout.]

Robert: “[Simultaneously to the end of Paula’s sentence] So, to be aware of that so if you are continuing”

Paula: [sighs loudly and laughs simultaneously to Robert talking]

Robert: “to build a difference”

Paula: [simultaneously says something unintelligible]

Robert: “is it better for them to be together as you do this, versus needing—you see what I mean?”

Paula: “Yeah, I see what you mean. Is it”

Robert: “[simultaneously] Or what—what’s [knocks on table once]—what’s needed [knocks on table four times]—what’s most needed now? [Knocks on table once in sync with “now.”] As we move on?”

Caitlin: “I think what’s most—I agree with Paula—what’s—I think—what’s most needed now is to have another conversation with Melissa...before we bring them both together. That we’re—that”

Robert: “and we’re also clear on our ending time today?”

Paula: “We can finish today. I don’t know when but we can finish today. [Laughs]”

Robert: “No, I need to ask you”

Caitlin: “[simultaneously] at five o’clock.”

Robert: "what time are you planning to stop? [Knocks finger on the table for emphasis.]

Paula: "Ahh, it's four-thirty"

Robert: "[simultaneously] or are you just gonna go until it's done? Is that—what was your understanding?"

Paula: "No, we told them in the beginning that if for any reason we didn't finish today we will do it later. But I think we are not—we don't—we won't need that."

Caitlin: "Well, we'll see. We need ta kee"

Robert: "but, what I'm asking you is what time do you anticipate you having to go? Five-thirty? Six? Six-thirty?... 'cus if they can't go beyond five, you have to think about the time of Melissa individually, the two together..."

Robert's narrative strategies during the NRS are influential in guiding the discourse away from the NRS. This occurs by the absence of his verbal engagement with the NRS and, most significantly, in his concerted (and successful) efforts to redirect the mediators' attention to the MDR.

Melissa's Narrative Strategies in Relation to the NRS

1. Uses subtle non-verbal communication, utterances, and vocal changes
2. Refers indirectly to NRS using euphemisms and "coded" phrases
3. Demonstrates the links between her needs, others' needs, and the barriers erected by negative racialization
4. Names NRS as a reality
5. Indirectly frames NRS as related to the future
6. Positions problem outside Melissa's and Gladys' relationship; (externalizing the conflict; reframing; positively positioning self and others; and negatively positioning others)
7. Considers others' needs
8. Blames self

9. Explains that it is hard to discuss the NRS because doing so means blaming others and framing self as a victim
10. Passionately engages with the NRS
11. Initiates discussion of the NRS
12. Changes topic to or continues discussion of macro level i.e.: setting/context
13. Changes topic to or participates in topical change to: RS, narrations of dis/connection and other deracialized or raceless stories
14. Changes focus to age and family status

Melissa has a wide array of narrative strategies she employs with regards to the NRS: different forms of direct and indirect engagement as well as actively disengaging from the story. Taken as a whole, these narrative strategies can be seen as contradictory and seem to reflect ambivalence about discussing the NRS. The content of what Melissa says when she engages or disengages with the NRS also falls into certain patterns. She both negatively and positively positions herself and others in the narrative; she discusses the issue of responsibility and blame for her experience of negative racialization,¹³⁰ and she explores the connection between herself and others, in particular, her needs and their needs.

1. Uses subtle non-verbal communication, utterances, and vocal changes

¹³⁰This Cobb (1994) calls the “theory of responsibility” which is to be found in conflict narratives of all kinds. Cobb argues that such stories are told by positioning a character(s) as responsible for the origin and maintenance of the conflict and that until the “theory of responsibility” is externalized to a location outside of the participants or until they mutually agree upon a version of the theory of responsibility, it remains a conflict narrative. In this case, Melissa, at times, frames herself as responsible for the situation she is in, and at other times, notes a dilemma she sees in discussing the NRS: that to do so requires blaming herself or others; something she implies that she is uncomfortable doing.

(#2)

Paula: "Ahh, you just said that you live in the middle of elderly people. I also was wondering if you're also the only umm, Latin American or maybe Puerto Rican descent [said with a smile in her voice] person in this area?"

Melissa: [Silence. Nods.]

Paula: "You are."

Melissa: "Uh, hum. I am. [Voice is noticeably quiet and sounds resigned]...I'm the only Latina there. I'm the only one who has a kid [laughs a little]. I'm the only twenty-two year old there [continues to laugh a little; voice is climbing the scale in pitch as she finishes each sentence]."

Caitlin: "the only single mother"

Melissa: "the only single mother [suddenly her voice returns to normal pitch] in that area."

Caitlin: "Uh, hum. Uh, hum."

Melissa: "Because the other kids—you'll see the difference if you go to this complex, you know what I mean? Families are on one side and the elderly people are on the other side [she seems to be exclaiming this]. You know what I mean? I'm like—I'm like—well it's not my fault for me living there because the administration put me to live there. And maybe they didn't wanna [pause] discriminate against me. But then, I understand the fact that these elderly people need their peace, too. You know what I mean?"

Caitlin: "Uh, hum."

Melissa: "They should like [pause] it's like I don't know what to do [her voice sounds distressed] you know. I really don't know what to do."

Paula: [Unintelligible—sympathetic sound.]

Melissa: "I am in a position that I wanna give them their peace but then I'm feeling uncomfortable because this other lady is not giving me the b-r-e-a-k of living my own life [sounding annoyed]. And that I have the right to live there as a normal person—normal young parent with a three-year-old kid. You know what I mean?"

(#3) (excerpts)

Paula: "Ummm. I was wondering if you would consider—if this is a possibility, yeah, I don't know if this is something we'll have to explore, but I was wondering if—if it is possible to consider that, ahh, you be moved to a place where there are other young [pause] people?"

Melissa: "It's like—how can I say it?—it's like, I don't really matter.¹³¹ [Laughs] It doesn't really bother me if they move me or not...But then, [voice drops to a hush] wouldn't they like think that's discrimination? You know what I mean?"

(#12)

Melissa: "But sometimes that's discrimination!"

Caitlin: "Uh hmm."

Melissa: "You know, it's very difficult for me to say it."

Caitlin: "Uh hmm."

Melissa: "Because I don't like to be a victim. I hate it! But it is. You know? It's a reality, you know? And I'm like, 'We need to do something.' You know? We have to teach them [laughs] how to be a good neighbor!"

2. Refers indirectly to NRS using euphemisms and "coded" phrases

(#1)

Melissa: "these people"

(#12)

Melissa: "We have to teach them [laughs] how to be a good neighbor!"

(#13)

In (#13), Gladys tries to demonstrate to Paula that there is a positive feeling between the White elderly tenants and Melissa—that all of them function well as a group and that Melissa "doesn't have any other problems there" (Gladys' Follow up interview

¹³¹Given the context, I believe that what Melissa meant by her comment was "it doesn't matter to me."

#1). Melissa responds to Gladys by pointing out that they are not a “good team” and that she doesn’t “know anybody.” The people to whom she is referring are her White elderly neighbors. Melissa’s comments here are seen as euphemisms given the previous discussions of the NRS and its relationship to Melissa’s feeling isolated and targeted by these White elderly neighbors.

Gladys: “Melissa, how—how is all the other residents down there? Are they pretty—they’re a good team?”

Melissa: “Yeah, they like I myself was telling them like if I see them outside I can—actually not. I just talk to like my nextdoor neighbor, _____ is her name? I’m not sure. And _____.¹³² Like when I see them in the parking lot or umm whenever, we talk. I don’t know anybody.”

3. Demonstrates the links between her needs, others’ needs, and the barriers erected by negative racialization

(#2)

Melissa: “I—I didn’t even wanna go there. But in the first letter that I wrote I was like, I’m not even gonna go into the fact that I am single mother, Latino, young parent, student in this area because then I would be saying that you guys are racist. And I don’t wanna go there because then I am assuming you guys are racist but then—I guess I—maybe if it was a Caucasian woman, too, single mother, young, parent maybe, I guess, maybe they will act the same way towards her? You know, I don’t them—a—to—accuse them or something that I’m not really sure about. But that’s a fact...Well, it’s not my fault for me living there because the administration put me to live there. And maybe they didn’t wanna [pause] discriminate against me. But then, I understand the fact that these elderly people need their peace, too...”

(#3)

Melissa: “Because then I will feel so good that my daughter has like neighbors to play with. You know what I mean? I would love to move from there because then ahh maybe I am being considerate to my other neighbors. You know what I mean? But then, [voice drops to a hush] wouldn’t they like think that’s discrimination? You know what I mean?”

¹³²The blank spaces represent names of Melissa’s neighbors.

4. Names NRS a reality

(#11.5)

Melissa: "You know, this is amazing! But it—it is very segregated."

(#12)

Melissa: "I'm like ...I have talked to other people and then I'm like, 'So where I live is the same situation! I'm like, well sometimes, you know that sometimes, it's—it's like hard to say it. But sometimes that's discrimination...It's a reality, you know?'"

5. Indirectly frames NRS as related to the future

(#12)

Melissa: "'We need to do something.' You know? We have to teach them [laughs] how to be a good neighbor! [Laughs] Or we have to teach each other how to be a good neighbor. Why can't we offer like a workshop?'"

6. Positions problem outside Melissa's and Gladys' relationship; (externalizing the conflict; reframing; positively positioning self and others; and negatively positioning others) and Considers others' needs

In some instances, Melissa frames the NRS as a reality but she does not clearly or directly indict anyone for its existence. She not only changes the subject by focusing on the needs of others, but frames their needs as legitimate. In addition, she positively positions the Meadowlark administration in her narrative regarding the NRS by pointing out that they may have tried not to discriminate against her; yet while doing all of this she also demonstrates her ambivalence about the accuracy of these views by stating that she had previously deliberated with herself about their veracity.

(#2)

Melissa: "I—I didn't even wanna go there. But in the first letter that I wrote I was like, I'm not even gonna go into the fact that I am single mother, Latino, young parent, student in this area because then I would be saying that you guys are racist. And I don't wanna go there because then I am assuming you guys are racist but then—I guess I—maybe if it was a Caucasian woman, too, single mother,

young, parent maybe, I guess, maybe they will act the same way towards her? You know, I don't them—a—to—accuse them or something that I'm not really sure about. But that's a fact...Well, it's not my fault for me living there because the administration put me to live there. And maybe they didn't wanna [pause] discriminate against me. But then, I understand the fact that these elderly people need their peace, too..."

At other times, while Melissa frames the problem as external to her relationship with Gladys, she negatively positions her neighbors as the cause of the problem and continues to positively position herself.

(#2)

Melissa: "They should like [pause] it's like I don't know what to do [her voice sounds distressed] you know...I am in a position that I wanna give them their peace but then I'm feeling uncomfortable because this other lady is not giving me the b-r-e-a-k of living my own life [sounding annoyed]. And I have the right to live there as a normal person—normal young parent with a three-year-old kid. You know what I mean?"

7. Blames self

(#2)

Melissa: "And I don't wanna go there because then I am assuming you guys are racist..."

(#3)

Melissa: "I would love to move from there...But then, [voice drops to a hush] wouldn't they like think that's discrimination?"¹³³

(#13)

Melissa: "I don't know anybody. Like I've—I'm never there, you know?...And I really don't like to be out. I'm like more a houseperson. You know? I guess that's the problem here. [Laughs] I'm always in."

¹³³This statement assumes that her request to move would constitute an accusation of the administration as racist.

8. Explains that it is hard to discuss the NRS because doing so means blaming others and framing self as a victim

Melissa points out that she avoids talking about negative racialization because, in effect, it requires that she negatively position someone: herself and/or others.

(#2)

Melissa: "I—I didn't even wanna go there. But in the first letter that I wrote I was like, I'm not even gonna go into the fact that I am single mother, Latino, young parent, student in this area because then I would be saying that you guys are racist. And I don't wanna go there because then I am assuming you guys are racist..."

(#11)134

Gladys: "Those are federal fair housing laws"

Melissa: "[simultaneously] uh hmm"

Gladys: "and they changed a long time ago and those elderly people who live there are going to have to get along with you and your daughter. Or, [small pause] they can move!"

Melissa: "Yeah."

Gladys: "More than you can move."

Melissa: "Uh hmm. That's—that's what I—I've told them. Like, that at some point that's gonna be like discrimination, you know what I mean?! If—if they—if that's the way it's—it's gonna work out."

Caitlin: "Uh, hmm."

Melissa: "And I don't wanna feel—like I'm the type a person that I'm even not gonna consider myself a victim, you know what I mean?"

¹³⁴In this segment (#11), Melissa uses the term "them" seemingly to refer to the mediators. She is pointing out to Gladys that she did not raise the issue of moving with the mediators because to do so would frame the problem as involving negative positioning: blaming someone else for discrimination and being willing to see herself as a victim, a perspective she does not want to endorse.

Gladys: "Don't be!"

Melissa: "Exactly!"

Caitlin: [Simultaneously] "Uh hmm."

Melissa: "So, that's—that's why I tried to tell them, you know."

(#12)

Melissa: "I'm like, well sometimes, you know that sometimes, it's—it's hard to say it. But sometimes that's discrimination! Because I don't like to be a victim. I hate it! But it is. You know? It's a reality, you know?"

9. Passionately engages the NRS

(#2)

Melissa: "But that's a fact that I'm the only Latina there. I'm the only one who has a kid [laughs a little]. I'm the only twenty-two year old there [continues to laugh a little; voice is climbing the scale in pitch as she finishes each sentence] the only single mother [suddenly her voice returns to normal pitch] in that area."

(#12)

Melissa: "I'm like...I have talked to other people and then I'm like, 'So, where I live is the same situation!' I'm like, well sometimes, you know that sometimes, it's—it's like hard to say it. But sometimes that's discrimination! You know, it's very difficult for me to say it. Because I don't like to be a victim. I hate it!"

(#12)

Paula: "It see—it seems very stressful."

Melissa: "It is!"

10. Initiates discussion of the NRS

(12#)

Melissa: "I'm like, well sometimes, you know that sometimes, it's—it's like hard to say it. But sometimes that's discrimination!"

11. Changes topic to or continues discussion of macro level i.e.: setting/context

After answering Paula's question about the racial makeup of the housing complex and asserting that the administration may have been concerned about discriminating against her, Melissa turns the storyline towards the dynamics of her living situation:

(#2)

Melissa: "They should like [pause] it's like I don't know what to do [her voice sounds distressed] you know...I am in a position that I wanna give them their peace but then I'm feeling uncomfortable because this other lady is not giving me the b-r-e-a-k of living my own life [sounding annoyed]...But I understand that they may—elderly people may feel uncomfortable listening to a kid running up and down all day."

12. Changes topic to or participates in topical change to: RS, narrations of dis/connection and other deracialized or raceless stories

(#2)

See transcript excerpt above in xii).

(#9)

Melissa: "I have to say that I didn't approach the subject that I was Latina. [Laughs.]"

Paula: "Umm,"

Melissa: "Yeah [laughs]. But I jus—I jus let them that I was living surrounded by elderly people. Yes. That I'm trying not to like bother them."

(#11.5)

After the NRS has been introduced and discussed, Gladys deracializes the discourse. Melissa reintroduces the NRS and the conversation is deracialized again, this time by Paula. At this point, Melissa follows suit.

Gladys: "...those elderly people who live there are going to have to get along with you and your daughter."

Melissa: "It's hard to believe but I walked around the other elderlies are in one spot and families are in another spot!"

Caitlin: "[Simultaneously] Uh hmm."

Melissa: "You know, this is amazing! But it—it is very segregated."

Caitlin: "Uh hmm, uh."

Paula: "Well, assuming that it happened to be like that because this is like ahh, the wa—there is a waiting list"

Melissa: "[simultaneously] uh hmm!"

Paula: "...what I want to do is like open it up to see if you have any thoughts or alternatives? To address the setting. [Laughing a little in voice.]"

Gladys: "[Simultaneously] We have policies...Melissa, you have every right to live right where you live and [small pause] you—you can't move."

Melissa: " Uh hmm. [Slight laughing sound in voice] I know."

13. Changes focus to age and family status

(2#)

After describing the racial context surrounding her apartment and how she had considered writing about that in her letter to Gladys, Melissa speaks of Meadowlark in terms of age and family status.

Melissa: "Because the other kids—you'll see the difference if you go to this complex, you know what I mean? Families are on one side and the elderly people are on the other side [she seems to be exclaiming this]."

As these excerpts demonstrate, all of Melissa's narrative strategies during the NRS fall under three basic categories. Melissa avoids the NRS—both overtly and subtly, ties the NRS to the larger context of her living situation (i.e.: her relationships with her neighbors and with Gladys), and she directly engages in the Negative Racialization Story. Melissa's strategies were not frequently geared towards engaging in Rules Stories.

Gladys' Narrative Strategies in Relation to the NRS

1. Asserts need to follow rules (RS)
2. Positions herself positively

3. Positions problems as outside Gladys' and Melissa's relationship; (externalizing them and negatively positioning others)
4. Responds with the RS
5. Does not engage with the NRS
6. Changes focus to age and family status
7. Responds without engaging with the NRS; thereby creating/engaging a deracialized or a raceless narrative
8. Frames rules as good and protective of Melissa (RS)
9. Shows support for Melissa
10. Implies that rules trap Melissa (RS)
11. Implies use of rules (RS) will lead to a solution
12. Engages indirectly with the NRS
13. Refers indirectly to the NRS using euphemisms and "coded" phrases
14. Uses subtle nonverbals and vocal changes

Gladys' narrative strategies during the NRS are most often focused on the story of rules in society—laws, police procedures, and Meadowlark's policies, for example. She routinely deracializes the discourse in response to the raising of the NRS and continually frames herself as supportive of Melissa's housing rights. She introduces other topics such as age and family status in moves that appear to avoid engagement in the NRS. When she does directly discuss the NRS she refutes its existence with the RS.

About 40 percent of narrative strategies Gladys employs regarding the NRS involve the narrative of rules in society (RS). In the six instances when the narrative of Negative Racialization is discussed in Gladys' presence, she responds a dozen times with strategies involving the RS: 4x asserting the need to follow rules which exist outside of

mediation; 3x responding with a narrative about rules which exist in the culture at large; 3x framing Meadowlark rules and federal laws as good for and protective of Melissa; 1x implying that such rules trap Melissa; and 1x implying that these rules will lead to a solution.¹³⁵

Gladys also uses strategies which do not deal with the RS on some occasions when the NRS has been brought up. Therefore, while the use of the RS is Gladys' dominant response, it is certainly not her sole one. Only once does she respond relatively directly to the NRS, seeming to intertwine the NRS with the RS.¹³⁶

1. Asserts need to follow rules (RS)

(#9)

Paula: "Melissa is living in umm—surrounded by ahh neighbors who are elderly people and ahh, elderly White people. And she's a single mother, young, student, umm, and she's a Latina..."

Gladys: "Melissa, I been the property manager at Meadowlark since umm, the beginning of May of just this year. And I don't know who lives where. I don't—you know, then I—when we moved you there—I have no—we must approach everybody—we have a one bedroom and you are next on our list?"

Melissa: "[Simultaneously] Uh, hmm!"

Gladys: "Then you get it!"

(#10)

After the NRS has been raised by Paula in #9, moments later Gladys says:

"Anybody in—anybody can live anywhere as long as they fulfill our policies. You had

¹³⁵ It is only on this one occasion that she frames rules in a negative light.

¹³⁶ See footnote #64 for more information on the relationship between the federal fair housing laws and Gladys' narrative strategies.

two people in your household they could live—you could live with your roommate. A student, another adult. You qualified for a one bedroom. You can be with your child. You qualified for a one bedroom. Therefore, you qualify for that. Those are federal fair housing laws and they changed a long time ago...”

(#11.5)

Melissa: You know, this is amazing! But it—it is very segregated.”

Paula: Well, assuming that it happened to be like that because this is like ahh, the wa—there is a waiting list and whoever’s there, gets there...”

Paula: “...knowing that this is not a choice, it have not been chosen by any of you [laughs]...I just wanna asked you if you have any ideas about what you wanna do about this? I mean, yeah, this is the setting...but I—basically what I want to do is like open it up to see if you have any thoughts or alternatives? To address the setting. [Laughing a little in voice]”

Gladys: “[Simultaneously] We have policies...Ahh, we have policies. So, I can tell you some of the policies.”

Paula: “Sure.”

Gladys: “Melissa, you have every right ta live right where you live and [small pause] you—you can’t move.”

Melissa: “Uh hmm. [Slight laughing sound in voice] I know.”

Gladys: “[Simultaneously] Because that would be wrong. Umm, and then, you also have to live there happily. But you also have transfer policies. And you can’t move! [Small laugh] Because our transfer policy doesn’t allow you to move. We have a very strict transfer policy because the waitlist for the one bedroom is much shorter than the waiting list for the two...”

2. Positions herself positively

(#9)

Gladys: “It would never occur to me that elderly were in an area or anything.”

Melissa: “It does! It’s like that [slight laughing sound in voice] I [unintelligible comment]”

Gladys: "So, I won't do that! I won't participate in that!¹³⁷ If there are, you know, I will not behave in that manner. Anybody in—anybody can live anywhere as long as they fulfill our policies."

3. Positions problems as outside Gladys' and Melissa's relationship; (externalizing them and negatively positioning others)

In these examples, Gladys frames the neighbors (#11) and the season (#13) as the origin of the problem:

(# 11)

Gladys: "Those are federal fair housing laws"

Melissa: "[simultaneously] uh hmm"

Gladys: "and they changed a long time ago and those elderly people who live there are going to have to get along with you and your daughter. Or, [small pause] they can move!"

Melissa: "Yeah."

Gladys: "More than you can move."

(# 13)

Gladys: "Melissa, how—how is all the other residents down there? Are they pretty—they're a good team?"

Melissa: "I don't know anybody. Like I've—I'm never there, you know?..."

Melissa: "So, I never get to see anyone."

Gladys: "Yeah, especially mo—more so in the winter, too. People don't come out as much."

4. Responds with the RS

¹³⁷ Here Gladys seems to be indicating her views on making housing assignment decisions based on identity and not on rules. This would violate the Federal Fair Housing laws which she subsequently states she believes passionately in (Follow up interview #2).

This is evident in the quotes from segments # 9, #10, and #11.5 and in #11 of the description of Gladys' narrative strategies.

5. Does not engage with the NRS

After Melissa describes how it is "hard to say it" and then exclaims that "sometimes that's discrimination!" Gladys does not engage in the discussion at all (#12).

6. Changes focus to age and family status

(#9)

Paula: "Melissa is living in umm—surrounded by ahh neighbors who are elderly people and ahh, elderly White people. And she's a single mother, young, student, umm, and she's a Latina..."

Gladys: "Melissa, I been the property manager at Meadowlark since umm, the beginning of May of just this year. And I don't know who lives where...It would never occur to me that elderly were in an area or anything."

(#11)

Gladys: "Those are federal fair housing laws"

Melissa: "[simultaneously] uh hmm"

Gladys: "and they changed a long time ago and those elderly people who live there are going to have to get along with you and your daughter. Or, [small pause] they can move!"

7. Responds without engaging the NRS; thereby creating/engaging a deracialized or a raceless narrative

(#9)

Paula: "Melissa is living in umm—surrounded by ahh neighbors who are elderly people and ahh, elderly White people. And she's a single mother, young, student, umm, and she's a Latina..."

Gladys: "Melissa, I been the property manager at Meadowlark since umm, the beginning of May of just this year. And I don't know who lives where...It would never occur to me that elderly were in an area or anything."

8. Frames rules as good and protective of Melissa (RS)

(#11)

Gladys: "Those are federal fair housing laws"

Melissa: "[simultaneously] uh hmm"

Gladys: "and they changed a long time ago and those elderly people who live there are going to have to get along with you and your daughter. Or, [small pause] they can move!"

9. Shows support for Melissa

It is in this same example found above, #11, that we can see Gladys' show of support for Melissa. In her response to the discussion of Negative Racialization she demonstrates her dedication to the application of law on Melissa's behalf.

10. Implies that rules trap Melissa (RS)

Gladys seems not only to recognize but to want to make clear to Melissa that Meadowlark's housing policies make it impossible for her to move at this point.

(#11.5)

Melissa: "You know, this is amazing! But it—it is very segregated."

Gladys: "Ahh, we have policies. So, I can tell you some of the policies."

Paula: "Sure."

Gladys: "Melissa, you have every right to live right where you live and [small pause] you—you can't move."

Melissa: "Uh hmm. [Slight laughing sound in voice] I know."

Gladys: "[Simultaneously] Because that would be wrong. Umm, and then, you also have to live there happily. But you also have transfer policies. And you can't move! [Small laugh.] Because our transfer policy doesn't allow you to move."

Gladys: "But until you qualify for a two bedroom, that's where you live. So, you need to"

Melissa: "[simultaneously] uh hmm"

Gladys: "make sure that you realize that you have every right to live there. And that their problems are their problems and not yours."

11. Implies use of rules (RS) will lead to a solution

In NRS segment #11.5—above—Gladys' comments imply that Meadowlark's policies (RS) trap Melissa since they dictate when and if she can move. Yet, at the same time, Gladys also weaves into her statements an indirect reference again to federal fair housing laws (RS).

She is trying to show how these laws actually free Melissa from having a problem. Gladys points out that since Melissa has the right to live where she does, she does not have to take on her neighbors' problems as if they are her own.

12. Engages indirectly with the NRS

(#11)

Gladys: "Those are"

Melissa: "[simultaneously] uh hmm"

Gladys: "federal fair housing laws and they changed a long time ago..."¹³⁸

13. Refers indirectly to the NRS using euphemisms and "coded" phrases

(#11)

¹³⁸ Since Gladys concentrates before and after this comment on Melissa's family status and the age of those who live around her, this comment can be interpreted in more than one way. The 1968 federal fair housing laws were designed to provide equal access to housing regardless of race, color, and national origin, for example; the 1988 federal fair housing laws were passed to provide protection regarding family status. Which laws was Gladys referring to and why? This is unknown. In addition, it is not known whether the others in the room thought her comments were about the 1968 laws or the 1988 laws or both. When interviewed, Gladys referred to the federal fair housing laws as they applied to family status. This may indicate that it is to these specific laws that she had been referring during this segment of the NRS. At the same time, others in the session may have understood her comments differently. This, too, is unknown.

Here Gladys is speaking about a set of laws which protect Melissa's right to housing regardless of family status, race, color, and national origin, for example. Yet, Gladys only refers directly to family status.

Gladys: "...anybody can live anywhere as long as they fulfill our policies... You had two people in your household... You qualified for a one bedroom. Therefore, you qualify for that. Those are federal fair housing laws and they changed a long time ago and those elderly people who live there are going to have to get along with you and your daughter. Or, [small pause] they can move!"

14. Engages the NRS with nonverbals and vocal changes

On five occasions during the NRS Gladys demonstrates vocal changes such as stuttering, speaking passionately, and exclaiming. She also, on occasion, leans towards Melissa and smiles and nods at her. She makes eye contact with other speakers and when she is defending herself she uses her hands, especially when she is making a point.

(#10)

Gladys: "So, I won't do that! I won't participate in that!... If there are, you know, I will not behave in that manner." [She seems to be referring to participating in housing discrimination based on a protected class.]

Gladys' narrative strategies during the NRS segments are overwhelmingly rules-based.¹³⁹ Her moves appear to be geared toward defending herself and demonstrating that she is caring for and supportive of Melissa's housing rights. Her efforts routinely result in diverting the conversation away from negative racialization.

Narrative Strategy Patterns and Themes Across Identities in Relation to the NRS

In this section the strategic discursive patterns and themes that are shared by various combinations of the players are presented. A striking finding is found in section

¹³⁹Gladys' strategies are more rules-focused than any other player except Robert. This is further explored in Chapter Five.

j), titled "All Players." The only pattern found among all those involved was the strategy of talking about rules in response to the NRS. It is powerful to see that this was what they all shared and not any strategy for engaging with the NRS. This reveals a baseline in the mediation discourse: the apparent lack of consensus on the need to engage in the Story of Negative Racialization. Another significant finding is that the NRS is almost exclusively raised by the two Latina players. Paula and Melissa are responsible for approximately 86 percent of the times that it is raised; close to 46 percent and 40 percent, respectively. Gladys raises it about 13 percent of the time, and both times she does so by making comments in response to the NRS segments Paula had initiated prior to her speaking. Caitlin and Robert never initiate the NRS. These findings raise a number of important questions for the analysis. For example, why is it that the Latina players were invested in the storytelling and elaboration of the NRS and others did not demonstrate this? In what ways did the lack of consensus on the importance of facilitating this story impact its failure to be fully constructed as a narrative in the mediation? The interpretation of the findings explore such questions in Chapter Five.

The additional findings presented below result in helping to illustrate how the lack of elaboration of the NRS occurred. The players are grouped according to several categories and those narrative strategies which each person in a category shared are listed. Any necessary explanations or qualifications follow in parentheses.

1. Mediators:

- ◆ Do not engage in the NRS
- ◆ Change topic to RS and/or MDR, dis/connection stories, and other deracialized or raceless stories
- ◆ Take care of others: those who do not want to engage with the NRS

- ◆ Externalize the problems to outside of Gladys' and Melissa's relationship
- ◆ Show support for Melissa
- ◆ Use subtle nonverbals to make dis/connection:

⇒ leaning forward and making eye contact to connect

⇒ not looking at speaker to disconnect

2. Service Providers: Mediators and Coordinator:

- ◆ Do not engage in the NRS
- ◆ Change focus to MDR
- ◆ Use eye contact to connect
- ◆ (Paula and Robert both use dramatic arm gestures when they are speaking insistently at one another about and in response to, respectively, the NRS)

3. Participants:

- ◆ Do not engage the NRS
- ◆ Respond with deracialized or raceless narratives
- ◆ Use euphemisms and "coded" phrases
- ◆ Externalize the problems to outside of Gladys' and Melissa's relationship
- ◆ Positively position themselves
- ◆ Positively position others; particularly each other
- ◆ Negatively position neighbors
- ◆ Change the focus to age and family status
- ◆ Use nonverbals and vocal changes:
 - ⇒ emotions evident in voice due to inflection, tone, repetition, & volume
 - ⇒ hand gestures, eye contact, and smiles demonstrate feelings and efforts to connect

4. Anglophones/Speakers of English as a First Language:

- ◆ Do not engage the NRS
- ◆ Respond with another topic thereby creating a deracialized narrative
- ◆ Use nonverbals:
 - ⇒ eye contact to connect
- ◆ (Caitlin and Gladys, the two White Anglophones: respond with RS; engage the RS and frame rules as trapping Melissa; show support for Melissa; change focus to parenthood/family status)
- ◆ (Robert and Caitlin, the two service provider Anglophones: rarely respond with nonverbals)

5. Latinas/Speakers of Spanish as a First Language:

- ◆ Do not engage in the NRS
- ◆ Passionately engage in the NRS
- ◆ Initiate discussion of the NRS
- ◆ Name the NRS as reality
- ◆ Indirectly frame the NRS as related to the future
- ◆ Externalize the problems to outside of Gladys' and Melissa's relationship
- ◆ Change topic to or continue discussion of macro level i.e.: setting/context
- ◆ Change topic to RS and/or MDR, dis/connection stories, and other deracialized or raceless stories
- ◆ Use nonverbals and vocal changes:
 - ⇒ use more nonverbals than anyone else
 - ⇒ hand gestures, eye contact, and smiles demonstrate feelings and efforts to connect
 - ⇒ laugh (seemingly out of tension, awkwardness, unsureness)

⇒ emotions evident in voice due to inflection, tone, repetition, and volume

6. People of Color:

- ◆ Do not engage in the NRS
- ◆ Use eye contact to connect
- ◆ (Paula and Robert both use dramatic arm gestures when they are speaking insistently at one another about and in response to, respectively, the NRS)

7. Whites:

- ◆ Do not engage in the NRS
- ◆ Frame RS as trapping Melissa
- ◆ Change focus to family status/parenthood
- ◆ Engage in RS
- ◆ Show support for Melissa
- ◆ Change topic to RS or other deracialized stories
- ◆ Use subtle nonverbals:

⇒ do not use nonverbals other than eye contact very often

⇒ use eye contact and lean towards Melissa to connect with her

8. Females (All Players Except Coordinator):

- ◆ Do not engage the NRS
- ◆ Externalize the problems to outside of Gladys' and Melissa's relationship
- ◆ Change topic or participate in topical change to RS, parenthood/family status, and/or other deracialized or raceless stories
- ◆ Use nonverbals:

⇒ eye contact

⇒ lean forward to connect

9. Male (Coordinator):

- ◆ Does not engage with the NRS
- ◆ Eventually responds with focus on MDR
- ◆ Eventually is directive by telling Paula and Caitlin what to do
- ◆ Eventually discusses something besides NRS directly; thereby creating a deracialized narrative
- ◆ Uses nonverbals:

⇒ dramatic arm gestures when speaking insistently at mediators in response to the NRS

⇒ eye contact to connect

(I recognize that there is only one player in this category and there are no others in this study who share the same gender and with whom Robert can be compared; however, I present the information since it does reflect the findings based on this gender category.)

10. All Players:

- ◆ Do not engage with the NRS
- ◆ Eventually focus on a story about rules (RS and/or MDR)
- ◆ Use subtle nonverbals

⇒ eye contact to connect

The Context of the NRS

By examining the content of the storytelling just before, during, and after the NRS is introduced during this mediation, we shift from a concentration on narrative strategies to a focus on the narration itself. Each time the Negative Racialization Story is raised, it occurs within a narrative context in which other stories are already under discussion. In

addition, while the NRS is being discussed, there are often other narratives which are engaged with simultaneously. On every occasion when the NRS disappears from the conversation, there are stories with different foci which follow its disappearance—some, arguably, fostering it. This section examines the broader context of the NRS segments, describing patterns of which narratives routinely surround the NRS. What follows are both a table depicting the patterns between these narratives and then an explanation of the context of each segment of the Negative Racialization Story.

Table 4: Context of the NRS

#1	#4	#6	#9	#11.5
RS/DC	DC	DC	DC	NRS/RS
NRS	NRS	NRS/DC	NRS/DC	NRS/RS/DC
DC	DC	DC	DC	RS/DC
RS	MDR		RS	RS
#2	#5	#7	#10	#12
RS	MDR	MDR/DC	NRS/RS	DC
NRS/DC/RS	NRS	NRS/MDR	NRS/RS/DC	NRS/RS/DC
DC	MDR	DC	MDR	NRS/DC
		MDR	RS	MDR
#3	#5.5	#8	#11	#13
DC	DC	DC	RS	MDR
NRS/RS	NRS	MDR	NRS/RS	DC
NRS/RS/DC	NRS/MDR/RS	NRS/MDR	RS/NRS/DC	NRS/DC
DC	RS	MDR		DC
	DC			MDR
	RS			
	MDR			

In other words, what is summarized in Table 4 is further detailed in the prose that follows. In this chart, the 15 NRS segments in the mediation are presented and the presence of these other narratives are noted where they appear in relation to the NRS.¹⁴⁰

A summary of the findings of the context surrounding the NRS reveals several patterns: 1) The NRS is most often accompanied by, intertwined with, or subsumed by a story about rules; 2) almost as frequently, it intersects the story of dis/connection; and 3) it is part of a “call to context” (Delgado and Stefancic, 2001; Haney Lopez, 1996). This call to context (which includes the NRS) is often undermined by the pursuit of deracialized narratives which are either highly individualized or abstract in their focus.¹⁴¹

The findings reveal that when there are attempts to elicit narration about the context, the discussion rapidly becomes deracialized after the introduction of the NRS. It then turns to individual (deracialized) relations, desires and needs or a (deracialized) abstract discussion of standards. For example, Paula states in the joint session that Melissa is “living in umm—surrounded by ahh neighbors who are elderly people and ahh, elderly White people. And she’s a single mother, young, student, umm and she’s a Latina.” Immediately following this Gladys deracializes the discourse and speaks about

¹⁴⁰ For purposes of this chart, the dis/connection story (D/Cstory) is abbreviated to DC. In addition, the NRS segment which is under examination is placed in bold in the table. The NRS segments which precede or follow the NRS under examination are not in bold. For example, since NRS segment #10 closely follows NRS segment #9, when the chart presents information about NRS segment #10 then the “NRS” from #9 is not placed in bold.

¹⁴¹ A brief explanation of how the concept of the call to context is being used here is in order. It is used to refer to the attempts to generate a discussion of the factors and conditions which exist and are influencing Melissa and Gladys’ environment and relations. An example of a call to context in this mediation are Paula’s questions to Melissa about the racial and ethnic makeup of neighborhood.

the laws and policies which regulate housing for all. Here, the narrative strategy not only eliminates the NRS from the discussion but further decontextualizes the situation. The material context of Melissa's specific experiences with isolation, racism, and disconnection and her specific needs as a result are not explored, but rather the procedures of abstract rules are.

The Relationship Between the NRS, the Rules Stories, the D/Cstory, and the Call to Context: Before, During, and After the Emergence of the NRS

This section is divided up into six subsections devoted to describing the relationship between the NRS, the Rules Stories, the dis/connection story, and the call to context. First, a subsection illustrates the patterns in these relationships by providing a detailed description of the context of each NRS segment. Key words are italicized to highlight the presence of these particular narratives and the patterns in their relationships in the descriptions below. After this are subsections which explore the findings about the Rules Stories and then the data on the dis/connection story and the findings on the call to context are offered.

Patterns in the Relationship Between the NRS, the Rules Stories, the D/Cstory, and the Call to Context

(#1)

The NRS is raised in the midst of a disconnection story which Melissa is telling to the mediators. Even after the NRS is dropped from the discourse she continues with the disconnection story, interweaving it with the RS about how she was accused by those (neighbors) who are relationally distant from her of violating policies and the law.

(#2)

The NRS emerges out of conversation about the cops and the party. Its focus here is on Melissa being the only Latina in a neighborhood of White elderly tenants. Melissa states that she did not want to

“accuse them or something that I’m not really sure about. But that’s a fact I am a single mother, Latino, young parent, student in this area” and she “didn’t even wanna go there...because then [she] would be saying that you guys [the administration] are racist.”

It appears that Melissa is concerned that if the focus is on proving that racism has occurred, that she might not be successful, but that she was experiencing being negatively racialized. This is followed by a discussion of Melissa’s other identities, the age of the neighbors, and then moves on to a conversation about Melissa’s disconnection with her neighbors. The context is not further explored regarding the NRS or the relationship connections in the neighborhood. Instead what replaces the NRS and the disconnection story is an effort to discuss individual needs and the MDR.

Caitlin: “So, you feel that you can’t...live sort of a regular life with your daughter in this space?”

Paula: “What do you hope to get through this mediation?”

(#3)

The NRS is raised by Paula in the midst of a discussion with Melissa about the larger context in which Melissa lives and what she thinks of moving to another section of the complex where “there are other young [pause] people” (Paula). Melissa then storytells about connection, wanting neighbors with whom her daughter can play. She also notes that moving might mean that she was helping out her current neighbors. There are multiple signs that this is a dis/connection story: she desires living someplace where she and her daughter will be able to have positive relations with the neighbors; there is an

implication that she sees her own needs as inextricably tied to those around her; and it represents the fact that she does feel connected—not entirely negatively—through a sense of responsibility to her current neighbors.¹⁴²

Following this, the topic shifts to the “nuclear family,” individual needs satisfaction, and physical space.

Caitlin: “I am also interested in the same questions and not so much what not that do you wanna move if that’s the solution for mediation or for —for down the road; but you yourself with your daughter. Are you happy in this apartment? Would you like to stay there and find a way to work things out?...What would it take to make that place feel like your home again: to make it your home so that you can be there with your daughter, so she can watch the cartoons, you that you can get your studying done?”

Notice that this interchange leads to concentration on individual needs satisfaction and is a turn away from any consideration of relationships outside the family and of the larger context. For example, the neighbors who negatively racialize Melissa and who act distant and hostile towards her have been extracted from the discussion.

Melissa responds with: “I don’t need to hear this neighbor banging on my walls and my daughter can umm watch cartoons....” While Caitlin has reframed the conflict as not within a relationship or person (thereby externalizing it), Melissa, still attempts to talk about the context and the disconnection story. She is still concentrating on the specific relationship and is placing the blame for the conflict with the neighbor.

(#4)

Melissa talks about her disconnection in the building, only having one positive relationship—with an older man with whom she has worked out a problem about music

¹⁴²These last two points may be due to personal values and/or it may reflect a culturally held value about relationships and community with which she was raised.

volume and who showed concerned for a cat she had. She points out that she does not know her nextwall neighbor, a Caucasian woman who she thinks is the one who accused her (NRS and D/CStory) of violating the rules. Caitlin builds only upon the D/CStory: acknowledging that not knowing people in the complex is "part of the problem." Then Paula talks about the rules of mediation (MDR) regarding confidentiality and asks Melissa what it is that she is willing to have shared with Gladys. This implies that the storytelling is about to end along with this private session.

(#5)

Immediately following the close of Melissa's private caucus Caitlin begins the mediators' caucus by commenting on the amount of time that the mediation process was taking (MDR). This leads to Paula to state that Melissa speaks English as a second language (NRS), implying that her private session took a while for this reason. Caitlin refers to this same time period—Melissa's private session—saying "she [Melissa] needed to just talk."

For Paula, the need for a long private session with Melissa reflects a communication barrier that requires more time (NRS); for Caitlin it reflects an individual's needs regarding time. In a way, then, Paula is implying that something outside of Melissa's control is generating what Caitlin has implied is somewhat problematic—the long amount of time spent in the private session. Because the mediation was conducted only in English, not only did Melissa communicate in her second language but Paula (who, like Melissa, speaks Spanish as a first language) had to try to understand Melissa's way of communicating in what is a second language for both of

them. Paula: "I—there were parts in which I was confused what she was saying. And like I needed to clarify things that I wasn't sure."

Caitlin implies that while the private session was lengthy it was necessary due to Melissa's personal need to "just talk." This need is deracialized in Caitlin's discourse. Is she implying that, as is common in traditional mediation lingo, all people in mediation need time to "vent" (MDR)? Or is she just not articulating her thoughts which concur with Paula, that Melissa needs more time to explain because she is speaking in her second language? This is unknown; however, what is known is that she did not frame Melissa's (or Paula's) need for a long private session as related to the language barrier (the NRS).

(#5.5)

The NRS is introduced by Paula as she talks about Melissa's isolated (D/Cstory) living situation: being the only person of color and single mother in her neighborhood. Caitlin concurs with the NRS and then moves the conversation to MDR, RS, and a D/Cstory (based on age). Paula builds on the RS and Caitlin heads off onto a narrative about MDR.

(#6)

Paula tells Robert about the previous private session with Melissa. She describes Melissa's desire to no longer be seen in a negative light by her neighbors (D/Cstory with a focus on personal needs). Then Paula engages in the NRS about Melissa being the only Latina in her area, mentioning, as well as, the other aspects of her identity which isolate her in her apartment building (D/Cstory); Robert only responds with "uh hmm's," not building on or engaging with any story.

Next, Paula mentions that “there is a neighbor who complains about her all the time and about the child.” Perhaps Paula sees this as implicitly or explicitly related to Melissa’s isolation due to her identities/the NRS; or perhaps she is shifting the topic to discuss the context further with a focus on the relationship with the neighbor (D/Cstory). She continues in this vein by talking about Melissa moving to where there are “other families” (D/Cstory). Robert does not build on this either and then Paula does not elaborate on the NRS further. In this episode, the storytelling shifted from an exploration of the context in which Melissa experiences isolation (the D/Cstory and the NRS) to an individual neighbor’s complaints and the raceless individual desire of Melissa to move to a (raceless) section of the apartment complex. Clearly, the narrative went from discussing a racialized context to discussing individual needs and a deracialized context.

(#7)

When the mediators discuss how to transmit to Melissa Gladys’ positive view of her (D/Cstory and MDR), Robert builds only on the MDR, wanting to focus the mediators’ attention on the structure and timing of the next steps in the mediation process. This diverts their plans to discuss Melissa’s relationship with her neighbor and the environment in which she lived (which included a discussion of the NRS). The mediators had intended to talk with Melissa and Gladys separately about this before bringing them together (Follow up interview #1 with Caitlin and Paula). However, Robert works to stymie this plan.

Paula rebuffs Robert’s initial efforts to engage only with the MDR by pointing out that age and ethnicity (NRS) were only brought up with Melissa and she imagines Melissa’s needs with regards to participating in the mediation would require another

private session to deal with these issues. Paula seems to be arguing for the importance of facilitating the narratives in a way that pays attention to the NRS and to Melissa's concerns for improving her relationship with Gladys and being seen in a positive light by her (D/Cstory). But, Robert ignores this and again returns to questions concerning the MDR; and his efforts to get the mediators to respond to his concern for time and the MDR win out.

All of this occurs in the following exchange:

(#7)

Robert: "uh hmm, uh hmm. Now why would you need to talk to Melissa separately instead of having them both come in together to share what each other said?" [Pregnant pause]

Paula: "Because [pause] Melissa, I mean because the issue of [small pause] umm age and all ethnicity was brought up ahh, by Melissa only, I mean in—in the conversation with her. I mean the three of us talked about it. It's not just her. It was brought up only with her. So, I'm not so sure yet [laughs a little] like how comfortable she's going to feel about not saying anything with regard to that. I mean I would like to convey the message that she's been in a very positive light by the manager [voice sounds insistent or maybe even a little irritated—emphatic] before having them together. Because actually the manager has not said any of this to her."

[Throughout Paula's talking, Robert is saying "uh hmm."]

Caitlin: "Right, we asked her."

Paula: "And I think it is important in addressing that part."

Robert: "Okay, okay."

Paula: "That doesn't mean that the context in which she lives is a problem."

Robert: "Right, right."

Paula: "Umm, but that would be my reason. I don't know do you have any suggestions?"

Robert: “[Simultaneous to the end of Paula’s words] I also want to—just want you to be aware of airtime. How much you’ve given each one in private caucuses. Have you been aware of how much time Melissa’s gotten versus Gladys? And if you bring Melissa back again is that more time?”

[Seamlessly moving into #8]

(#8)

Paula: [Simultaneously to Robert’s ending words] “Well, the problem is that Melissa”

[Pause]

Caitlin: “but that’s right”

Paula: “it’s that Melissa’s ahh first language is not English. And [laughs] a—we have to clarify a lot! With her. Several things she was talking about. So that took time. Gladys was, you know, very clear and articulate.”

[Robert is saying “uh hmm” during this time.]

Robert: “...if you are continuing to build a difference [in airtime] is it better for them to be together as you do this, versus needing—you see what I mean?”

So, in this episode (#8), Robert remains focused on MDR—on symmetry in airtime; however, Paula reasserts the topic of NRS which she had raised in #7. Caitlin follows with support for the MDR. In the end, Caitlin supports Paula’s idea of having another private session with Melissa based on their understanding of Melissa’s needs and yet Caitlin also tells Robert that she sees importance of attending to the traditional mediation rules. At that point, Paula ends up building on the MDR as well.

In looking at both #7 and #8, we can see how the plan was diverted away from having a substantial private discussion about the reality of Melissa’s life—her relationship with her neighbors (D/Cstory) and how she is negatively racialized by them (NRS and context), as well as the new information about Gladys’ positive view of her (D/Cstory). All this was to be discussed with Melissa before the mediators would

determine if and how this might be raised with Gladys in a joint session. Instead, Paula and Caitlin find a middle ground between their plan to have second substantial private sessions with the participants and Robert's demands for them to pay attention to and build on the MDR. As they had promised Robert, they meet Melissa only briefly for a second private session and do not offer one to Gladys.¹⁴³

(#9-11.5; flowing seamlessly from one into another)

Before the NRS is raised, Caitlin, Paula, Melissa, and Gladys are present in the final joint session and they are discussing Melissa's nextwall neighbor making false accusations against her (D/Cstory). Then Paula introduces the NRS (#9) about Melissa's racial context. And what follows over these four segments of the NRS is a struggle between the NRS and the Rules Story of society (RS). Melissa responds to the NRS by disowning it and reiterating that those around her are different from her by age and that she is "trying not to like bother them." This continues the focus on the D/Cstory but it deracializes it. Gladys then responds with the RS about Meadowlark's housing policies and how, as a result of how they function, she does not even know where people live and would not have known that all the elderly live in one area. By these comments, Gladys deracializes the context reinforcing the raceless of the discussion at this point; and she also turns the focus away from specific relationship in Melissa's context to abstract rules.

Gladys continues (in #10) by saying that she "will not participate," implying that she will not take part in something that violates anyone's housing rights (RS).

Apparently, the NRS causes her to think about policies and equality, bringing to the

¹⁴³The fact that they do not meet with Gladys for a second private session when they had met with Melissa a second time is unc customary in this and other program.

discourse the theme of abstract standards. Melissa proceeds by interrupting Gladys to begin to talk about how the context of the complex, "it's like that." By this she is referring to Gladys' comment about all the elderly living in one area (D/Cstory). Is this a coded comment for racial (NRS) segregation (RS) too? Paula introduces MDR by telling Melissa to let Gladys finish talking. While Paula's intervention is courteous to Gladys and also follows traditional mediation rules, it is a striking moment. The situation now consists of a Latina mediator who had been the one to raise the NRS intervening to curb the narration of the Latina tenant who is describing her experience living in segregation; and this is being done to protect the storytelling of the White manager who is deracializing the narrative as she speaks about abstract rules (RS). While this is unlikely to be Paula's intention, the impact is to privilege Gladys' deracialized rules narrative. More likely, Paula is trying to respond appropriately given her role as a facilitator of multipartiality¹⁴⁴ or turntaking (MDR) (Millen, 1992). It is probable that Paula wants to demonstrate caring and to build/maintain trust since she knew that she had just raised a topic (the NRS) that would be challenging for Gladys to hear (Paula's Follow up interview #2). So, having been given the floor once again, Gladys continues with an explanation of the housing policies (RS) and then her narrative shifts to include both the NRS, by implication, and the RS:

(#11)

"Those are federal fair housing laws and they changed a long time ago and those elderly people who live there are going to have to get along with you and your daughter. Or, [small pause] they can move!"

¹⁴⁴ It can also be seen as attempt to provide Gladys with the necessary access to storytelling since she was in the middle of speaking.

Notice how the explicitly stated identity is age and so the discourse once again is raceless. And yet, ironically, this narrative, while explicitly deracialized in this way, still focuses in some manner on the NRS due to its reference to the federal fair housing laws which protect people regardless of their race, color, or national origin, for example, from being discriminated against. She makes this reference to let Melissa know that she will protect her legal right to housing.

Gladys is, therefore, placing herself in a positive narrative position with regards to the NRS. While she does not respond to Melissa's isolation based on her negative racialization, Gladys does respond to the larger context by noting that she had been unaware of it and was not responsible for it (since she was new, unaware of it, and had followed the policies and the law); and she seems to leave this as the end of the NRS story. Gladys is once again introducing into the narrative abstract principles (RS) as a response to the NRS. She dismisses Melissa's neighbors' discomfort and overlooks any results that may have on Melissa's life, since the law (RS)—and therefore, Gladys—will protect Melissa's right to live there.

Melissa states ambiguously that "that's gonna be like discrimination...if—if they—if that's the way it's—it's gonna work out." It is not clear to what she is referring here. Is she wondering if a move by her is going to be discriminatory towards others? Does she feel it is discriminatory towards her to expect her to move? Does she mean that it will be discrimination if the neighbors are allowed to continue to treat her in a racist and disconnected way? Melissa continues by saying she doesn't want to feel like a victim and Gladys enthusiastically supports her in rejecting that label. The conversation veers

towards Melissa's individual concerns and needs and away from the topic of discrimination and context.

But then Melissa says,

(#11.5)

"So, that's—that why I tried to tell them, you know. [Small pause] It's hard to believe but I walked around the other elderlies are in one spot and families are in another spot! You know, this is amazing! But it—it is very segregated" (RS, NRS, D/Cstory).

This reflects several things. One, at a minimum, Melissa is ambivalent about clearly stating how she feels about the context, beyond age, but particularly about the NRS. She seems to be of two minds: not wanting to feel that she has to move (RS) to be happy because the neighbors are the problem, and, at the same time, wanting to have connection with neighbors who have children with whom her daughter can play (which would require her to move).

But then Gladys articulates that Melissa cannot be experiencing racism since the laws and policies which are based on equal treatment are being followed. Gladys places the problem on anyone who would not support such laws and policies by saying that if the neighbors have a problem it is their problem not Melissa's. This, in some ways, is very supportive of Melissa, since Gladys demonstrates her willingness to act fairly according to the law and to see Melissa not take others' attitudes to heart. Yet, the way in which Gladys argues that Melissa and she are not responsible for the problem implies that things are fine as they are. This does not recognize, engage with, or build upon Melissa's contextual and material living conditions at the apartment complex. It does not take into account how she is experiencing being targeted (due to negative racialization) by false

complaints and is isolated (D/Cstory). This abandons the NRS and goes to a raceless narrative of individual responsibility and abstract rules.

Paula does not undermine Gladys' RS themes and merely sidesteps them by acknowledging that "it have not been chosen by any of you [laughs] and as I said, this is the setting. It's just the way it is right now." Melissa then exclaims that that still leaves her disconnected. Immediately, Paula returns to elicit a discussion of options for Melissa's housing (context) but without explicitly discussing the NRS:¹⁴⁵

"Umm, I just wanna ask you if you have any ideas about what you wanna do about this? I mean, yeah, this is the setting, I, you know, I just wanna know would you like to umm, keep it the way it is and go through the mediation with this other person and see what happens? Would you like to consider other options? I don't know if there are other options?! Ahh, but I—basically what I want to do is like open it up to see if you have any thoughts or alternatives? To address the setting. [Laughing a little in voice]."

This focuses attention on individual desires are while still addressing the larger context. Here the narrative is once again raceless, however, it still builds on the results of the reality of the NRS which is Melissa's actual context; and Paula has asked Melissa and Gladys to engage with and build on it.¹⁴⁶ Gladys responds with RS and never again in the mediation is the NRS engaged with by anyone other than Melissa. The RS is narrated by Gladys as she describes the fact that Melissa has no options since, (in my words), the rules of fairness trap her. The transfer policies are strict and Melissa is not be able to

¹⁴⁵In her Follow up interview, Gladys stated that she saw this as Paula's way to insist on talking about "her agenda." Melissa's racialized context. Even though the way Paula raised it this time did not blame Gladys, she was mad because, from her perspective, the topic was continuing to be pursued.

¹⁴⁶This is probably why Gladys, frustrated, experienced it as a continuation of the NRS.

move unless her household grows.¹⁴⁷ The policies and procedures of Meadowlark have become the fabric of the conversation for all. As they come to the end of the longest interchange in which the NRS was brought up, the only remaining story on the table is the RS.

(#12)

In this segment, the agreement is under construction and the mediators and participants are discussing Gladys' role in the upcoming mediation which Melissa will seek with her nextwall neighbor (D/Cstory). Melissa raises the NRS, RS, and continues discussing the D/Cstory as part of her concentration on the context in which she is living. She tells Gladys that she had discussed with others her housing situation and compared it to theirs and had concluded to herself that:

“So, where I live is the same situation! I'm like, well, sometimes, you know that sometimes, it's—it's like hard to say it. But sometimes that's discrimination! You know, it's very difficult for me to say it. Because I don't like to be a victim. I hate! But it is. You know? It's a reality, you know?”

Here she uses the same language of victimhood she had used with Gladys previously when she had been much more ambivalent. And yet, she is directly articulating to Gladys that, while she does not want to see herself as a victim, when she has a clear perspective on the “reality” of her living situation she sees it as discriminatory. She continues by making what seems to be a request for Gladys to take action (which could respond to her isolation and negative racialization):

¹⁴⁷This is not something that is ever discussed as an option; and yet Melissa chooses to do this one month later when she adds her boyfriend to the list of who will live with her and then she puts herself on the transfer waiting list.

“We need to do something. You know? We have to teach them [laughs] how to be a good neighbor! [Laughs] Or we have to teach each other how to be a good neighbor. Why can’t we offer like a workshop.”

No one engages with or builds upon Melissa’s NRS and her narration about her context (D/Cstory). No one asks her here to elaborate on her vision of how she would like to see the future of her context with regards to the problems of negative racialization and disconnection. Paula curbs Melissa’s participation at that point and moves everyone into the final phase of the mediation—writing up the agreement. Paula utilizes the narrative of MDR and directs Melissa to individuate and privatize her handling of the problems in her context by stating:

“Hopefully this other mediation will address, you know, these issues with that person in particular. You know, since she’s the one [laughing sound in voice] who’s umm, you know, been involved in this con—with this conflict. So, you know, do raise it there. ‘Cus it is very important. Umm, in the interests of time [laughs] already. Umm, I just wanted to read to you, ahh, what are—my notes about what you agreed to see if we can all write it down.”

So, time pressures and procedure (MDR) takes precedence over discussing what Melissa had insinuated was a proposal—the workshop on good neighboring (NRS, D/Cstory, context). For the mediation to reach closure, there is an implication that it is not necessary to include this in the plans which Gladys and Melissa are putting into the agreement. In other words, it has no role in the co-constructed narrative about the future.

(#13)

While this last segment occurs during the final joint session, only Gladys and Melissa are involved in the conversation. Caitlin goes to invite Robert to join them for the agreement signing (MDR) and Paula is writing out the agreement points (MDR). As this is going on, Gladys asks Melissa: “how is all the other residents down there? Are they pretty—they’re a good team?” Gladys points out in her Follow up interview that she had

done this explicitly for the purpose of showing Paula that things are fine between all the neighbors.¹⁴⁸ Evidently she had felt that when Paula had raised the NRS earlier this had implied that things weren't fine.

Gladys' question explicitly ignores what Melissa has stated throughout the entire mediation—that she is isolated and disconnected in this context, and feels that not only are the neighbors making false accusations against her but that they are doing so on purpose. It also ignores the fact that Melissa sees this as more than just a problem between two individuals to be handled in a mediation with her neighbor; which is what is being carefully worded into the agreement at this moment.

Melissa responds to Gladys' question about the "good team" of neighbors with a D/Cstory about not knowing her neighbors. This appears to be directly related to her negative racialization (NRS) by the neighbors and possibly her cultural and personal expectations and needs for a positive connection with those she lives near. Melissa then builds on her own D/Cstory by blaming herself for the disconnection by stating that she is so busy that she is not around much which is why "I never get to see anyone." Gladys transforms the D/Cstory by stating that "yeah, especially mo—more so in the winter, too. People don't come out as much." So, at this point, Gladys' explanation of Melissa's isolation in her neighborhood is that the season typically influences people to stay inside (an abstract standard). The NRS and even the D/Cstory about Melissa's relationships with her neighbors and how they really treat her are no longer part of the discourse.

¹⁴⁸ Ironically, in her Follow up interview, Paula said that while Gladys and Melissa were having this conversation and she was writing up the agreement she had not paid attention to what they were saying each other.

Caitlin returns with Robert who is present to witness the signing of the agreement and he says, “So, as the coordinator I need to sign off on your agreement to—just to say that I’m gonna follow up in a couple weeks. Give you both a call just to see how things are going” (MDR). So, as the agreement is ready to be signed and the protocol for ending a mediation session is underway (MDR), the NRS has not only not been built upon, Melissa’s interrelated stories about dis/connection and context conclude with her blaming herself for staying in her apartment too much. Melissa is about to sign an agreement without having the narratives of Negative Racialization and dis/connection or her concerns about the context of her living situation fully understood, engaged with, or built upon for the future. Instead, this segment ends with the narrative focused on the traditional roles and closure rituals of a mediation session (MDR).

This section provided a relatively detailed overview of the pattern of several narratives that routinely coincide with the NRS segments. It described how the narratives of Rules (MDR and RS) and of dis/connection are constant companions along with discussions of the larger context of Melissa and Gladys’ relationships at Meadowlark. This understanding of the content of the narratives that are intertwined with the NRS can be combined with the data presented earlier on the patterns of the narrative strategies of each player. What is striking from both these sets of findings is the consistent engagement with and elaboration on the Rules Stories during and after the NRS.

A Summary of the Rules Stories Which Permeate the Narrative Context of the NRS

The presentation of data reveals that the NRS is deeply connected to the narrative of rules. In fact, about 73 percent of the 15 NRS segments intersect directly with Rules Stories. The Rules Stories also surround the NRS by appearing just before and after,

revealing how they saturate the narrative context of the NRS. All 15 of the NRS segments have a context before and/or during and/or after which involve a narrative about rules except #6; (9 of the segments are RS: #1, 2, 3, 5.5, 9, 10, 11, 11.5, 12; 8 are MDR: #4, 5, 5.5, 7, 8, 10, 12, 13). 60 percent of the 15 segments have Rules narratives underway before the NRS is raised (5 are RS: #1, 2, 10, 11, 11.5; 4 are MDR #5, 7, 8, 13). About 73 percent of the 15 have a Rules Story narrated during the NRS; 20 percent of the 15 are a MDR (#5.5, 7, 8) and about 53 percent of the 15 are a RS (#2, 3, 5.5, 9, 10, 11, 11.5, 12). About 93 percent of the 15 have a Rules narrative which follows from, continues after, or picks up right after the NRS has ended; about 40 percent of the 15 are RS (#1, 5.5, 9, 10, 11, 11.5) and about 53 percent are MDR (#4, 5, 5.5, 7, 8, 10, 12, 13).

So, clearly Rules Stories are closely tied to the NRS. Only three NRS segments do not involve a Rules Story (#1, #6, #13). In all other NRS episodes, narratives about Rules are present first, are intertwined, and/or immediately follow. And what I found of significance is that 12 out of 15 (80 percent of the) times that the NRS emerges it ends with a Rules narrative.

How Rules Stories Were Used During the NRS

An interrogation of the narration of Rules during the NRS uncovered that they serve several purposes: A Rules Story: a) is used to defend one's positioning in a story or to respond to another person; b) is used to define the problem; c) is employed to protect a participant's storytelling opportunity; and d) acts to shut down the conversation about the NRS. Each one of these will be explored in turn.

Rules Stories: Used to Defend One's Position in a Narrative or to Respond to Another Person. Several times one of the participants uses a RS to defend herself during

the discussion of the NRS. When Gladys uses a Rules Story during a NRS segment, she defensively she positions herself as a good manager who is law abiding. Melissa uses Rules Stories to defend herself after the NRS had been raised in order to positively position herself as well, explaining that she is a good tenant and that she has not violated any rules.

Rules Stories Used to Define the Problem. An example of the use of Rules Stories to define the problem is Melissa's rules-oriented definition of her racialized context: (#12) "'So, where I live is the same situation!' I'm, like, well sometimes, you know...that's discrimination!" This articulation of the NRS and RS together defines the problem as illegal racism.

Rules Stories Employed to Protect a Participant's Storytelling Opportunity. Quite a few times after a NRS segment is already underway, Paula uses the introduction of MDR to protect an opportunity to storytell—most often Melissa's. For example, she asks Melissa about what she wants to keep confidential from Gladys; she asserts to Robert Melissa's need to speak in private without Gladys present; and she asserts to Robert Melissa's need to have private sessions which may last longer than Gladys'. Paula also uses MDR to stop Melissa from interrupting Gladys, thereby protecting the manager's chance to continue speaking.

Caitlin uses MDR on one occasion to support Gladys, as well. In this instance, Caitlin agrees with Paula that the NRS is important to talk about but then states that it should not be introduced by the mediators into Gladys' first private session. This is to protect Gladys' time to narrate from her own perspective before being faced with a topic (the NRS) from Melissa's private session.

Rules Stories Act to Shut Down the Conversation About the NRS. Gladys uses Rules Stories several times (in NRS segments #9–11.5) which have the momentary and longer term effect of shutting down the conversation about negative racialization. For example, when Melissa states that the apartment complex is segregated, Gladys immediately responds with a description of Meadowlark's housing assignment policies. This is what is responded to and elaborated upon not the NRS. At other times, traditional mediation rules are introduced by the coordinator and/or the mediators and this puts closure on the discussion of the NRS. Therefore, the Rules Stories permeate the narrative context in which the NRS emerges, attempts to survive, and they are present at its demise in twelve of the fifteen segments.

The NRS Without Rules Stories Present

There are only three occasions (#1, #6, #13) out of fifteen, when the NRS broached and Rules Stories are not present already and are not introduced. However, even on these occasions no one engages with or builds upon the NRS and it soon disappears from the discourse. For example, in #6, Paula summarizes to Robert what Melissa had told to the mediators so far. After mentioning the NRS and in the presence of Robert's silence she moves away from it and describes other storylines. In a second instance (#13), Melissa raises the NRS to Gladys and then blames herself for the disconnection that she feels with her neighbors. In both #6 and #13 (as well as in #1), the person narrating the NRS is a Latina who gets no response from the Anglophones¹⁴⁹ in the room and then she proceeds to change the subject to a deracialized story.

¹⁴⁹In #6 Robert does not respond to Paula; in #13 Gladys does not respond to Melissa.

The Relationship Between the D/Cstory and the NRS

As previously mentioned, a second pattern revealed by the findings is that the story of dis/connection is intertwined with the Story of Negative Racialization. In the context of the NRS, the discourse turns to disconnection and/or connection almost as often as the Rules Story. The D/Cstory appears to be interwoven into the narrative fabric of the mediation throughout. It frequently is tied to the discussion of negative racialization since Melissa holds that it is a cause of her isolation and why she is targeted by her neighbors. Only #5 lacks the presence of a D/Cstoryline. About 66 percent of the time the D/Cstory is present before someone raises the NRS (#1, 3, 4, 5.5, 6, 7, 8, 9, 12, 13); about 53 percent of the time the NRS and the D/Cstory are narrated simultaneously (#2, 3, 6, 9, 10, 11.5, 12, 13); and 80 percent of the time the D/Cstory outlives the NRS, either continuing after it has stopped or being engaged with immediately following the closure of the discussion of the NRS (#1, 2, 3, 4, 5.5, 6, 7, 9, 11, 11.5, 12, 13).

It is interesting to note that the discourse about relationships and isolation often does not disappear when the NRS narrative ends. No player indicated that they were uncomfortable discussing the D/Cstory; yet some mentioned they had felt that way about the NRS. Therefore, was it easier to engage in the discourse about disconnection? What is the meaning of the fact that the players repeatedly discussed disconnection and deracialized it each time that the NRS was raised in its midst? The deracialization of such narratives is further explored in Chapter Five.

The Call to Context and the NRS

A third pattern observed about the narrative context of the NRS is the call to context which is on-going by Paula, Caitlin, and Melissa. They attempt throughout to

generate narratives which account for Gladys' and Melissa's environment. However, it is important to note that these efforts overwhelmingly concentrate on how the larger context affects Melissa's life; very little attention is paid to how it affects Gladys. Most of the NRS segments are part of efforts to elaborate about this context on behalf of Melissa.

Consistently, the invitations to pay attention to the context are lost by pursuit of narratives about highly individualized or abstract themes. For example, when Paula seeks to engage others in a discussion of Melissa's living environment, including the demographics of the neighbors, Gladys immediately discusses her own role in following rules—standardized by the law and applied universally within the U.S. This narrative strategy results in turning the content under discussion towards a deracialized focus on the individual (Gladys' role) and an abstract principle (the law).

In fact, 80 percent of the NRS (all except #2, 3, 6) end with a focus on some form of Rules narrative which is based on abstract standards. In addition, about 53 percent of the NRS (all except #1, 4, 5.5, 9, 10, 12, 13) close with a theme of individual needs, desires, or concerns under narration. So, the call to context is marginalized along with the NRS on the majority of occasions.

Other Significant Topics and Narrative Moves Present During the Negative Racialization Story

After the mention of negative racialization in the discourse, the majority of the content of what is discussed has been coded as turns away from the topic of the NRS and the majority of narrative moves which occur during the NRS support this. For example, the content which represent turns away from the discussion of the NRS includes: Rules Stories (RUSTORY) which come up about 36% of the time; the MDR which is raised about 7%; a discussion of mediation procedure (PD) occurs close to 6%; an elaboration

on Gladys's deracializing narrative (BGS) happens about 6% of the time.¹⁵⁰ Examples of the narrative moves away from the NRS include: reframing the theme or meaning in a narrative (REFRAME), emerging approximately 14%; attempting to turn the conversation towards a topic which closes out the NRS (NCLO) which occurs about 13%; displacing the blame (XTERN), particularly with regards to the NRS, taking place about 7%; abruptly moving to stop someone from discussing the NRS (CURB) occurring about 6%; offering a denial with regards to the NRS (DEN), happening approximately 6%. Combined, these efforts (occurring 70x) regularly create a momentum which undermines the continued discussion of the Negative Racialization Story.

Two other things which occur during the NRS segments bear mentioning. One is topical and the other is a narrative strategy. When the NRS is raised, frequently a speaker also converses about identity factors besides race or racialization. Eighty six percent of these references are made by Paula and Melissa, with Gladys making such references on the other occasions. Caitlin and Robert do not refer to other identities during the NRS. It is possible that the discussion of the NRS stimulates thinking about additional aspects of identity. Or, is it easier to discuss these other identities and doing so is an avoidance of the NRS? Since the identity categories of age and parental status, in particular, regularly accompany the NRS in conversation, perhaps this is directly connected to the NRS. Paula comments on this: "There are many negative images attached to her [Melissa's] group (Puerto Rican) and the fact that she is such a young single mother. But none of this was

¹⁵⁰The D/Cstory is frequently engaged with after the NRS is raised, however, it does not compete with it and, in this and way, is not a turn away from the discussion of the NRS. Therefore, it is not covered in this section.

talked about in the process with them. Of course, Caitlin and I discussed it and we cared about and included it in our interventions.” So, even though the connection between the identities of age, parental status, and negative racialization was not overtly discussed, it apparently was on some people’s minds. Did this affect the content of what they discussed?

Another code which occurs during the NRS segments represents some of the attempts made to prevent the discourse from moving away from the discussion of the NRS. This code is called narrative closure prevention efforts (NCLOPE).¹⁵¹ These efforts were conducted by Paula and Melissa on 14 occasions when they faced attempts to end the discussion of the NRS. It is not surprising that these two players are the ones who undertake to prevent diversionary tactics. And such tactics were frequently employed; an effort to shift the topic away from the NRS occurred 30 times out of the 15 brief

¹⁵¹This term is a variation on the concept of narrative closure (Cobb, 1994). Narrative closure is the way in which a narrative is able to protect itself against different interpretations. Through such protection, the narrative can continue to evolve at that point without a successful challenge. A narrative closure prevention effort is an attempt to keep a narrative from becoming closed or protected from alternate interpretations. This is an important strategy when the desire is to offer a legitimate challenge to the interpretation of that narrative. That is the case with the NRS—which offers a different interpretation of what happened to Melissa than the dominant narrative in society. The dominant narrative in society is that negative racialization is not common or easily provable (Delgado and Stefancic, 2001). Since it is the dominant narrative it would be easier to converse about it than the NRS, without having other interpretations present a significant challenge to it. For example, when Gladys says that the laws are applied equally to all tenants, this supports the dominant narrative; therefore, if laws have not been broken then racism cannot be proven to exist. However, if Melissa’s narrative states that her neighbors’ and the management’s behavior is racist (the NRS), it can more easily be challenged by alternative interpretations since it goes against the dominant narrative. In other words, the NRS has less narrative closure than those (i.e.: RS) stories which resonate with the dominant narrative. Because of this, attempts to make room for the NRS and prevent the dominant narrative from having narrative closure are referred to as narrative closure prevention efforts (NOCLOPE) in this case study.

segments of the NRS.¹⁵² Despite the NCLOPE moves made by Melissa and Paula, the NRS segments were few and brief.

The Context After a NRS Segment

The narrative strategies each player uses during the NRS do not ensure that negative racialization remains a topic of discussion for long, let alone, that it is elaborated upon to any extent. Once the NRS has disappeared from the conversation, what else commonly occurs besides the engagement with the discourse of Rules or the narrative of dis/connection? In most circumstances the next speakers have an emotional affectation in their voice. This takes place about 86 percent of the time and often manifests as laughter. Another interesting behavior taking place after the NRS is the effort players make to connect with others in the room; both verbally and nonverbally. This happens 33x. These take such varied forms as building a joint story,¹⁵³ offering validating “uh hmms,” and attempting to create trust (such as mediators summarizing and checking to be sure they fully understood what a participant said).¹⁵⁴

These attempts at connecting could seem inconsistent given that the discourse on negative racialization appears to be emotional and stressful for the players. However, since the mediators and the participants (as well as the coordinator) are interested in creating an agreement and a better relationship between Gladys and Melissa this behavior

¹⁵²Over 66 percent of time, the focus of the conversational shifts away from the NRS was about rules.

¹⁵³This refers to the process of developing a mutual understanding of one or more components of a story. For example, agreeing with another’s interpretation of an event.

¹⁵⁴This implies intention and therefore was validated through interviews with the players.

is not a surprise. Given their goals and that a topic was brought up which some are uncomfortable discussing, it makes sense that they would try to reach out to connect as they move on to other topics—which, as previously mentioned, are most often Rules Stories and the dis/connection story.

The Place of the NRS in the Mediation Process and Its Agreement

The Story of Negative Racialization played a small role in the overall discourse in the mediation from the perspective of the amount of time it consumed and the actual impact on the agreement and future plans which were co-created by the participants and the mediators. However, the struggle to tell this story, to get others to listen to it, and the struggle to subvert the telling of this story played a significant role in the activities of the players. And without prompting, all involved in this intervention stated during their interviews that the emergence of this narrative created critical incidents in the mediation.¹⁵⁵

Despite the importance of the NRS to Melissa's life experience at the time, Paula's clear investment in raising the topic, and Paula's and Melissa's various attempts to do so, the NRS did not make it through the mediation "alive." The story was dominated throughout by other narratives and, in the end, was marginalized, in particular, by the Stories of Rules. To understand more fully why this occurred, we can examine the

¹⁵⁵ A "critical incident" was framed for them as: an occasion which appears to alter a situation and/or relationships significantly. It may suddenly and/or dramatically change the topic of discussion; cause a significant visible reaction from others; lead people to engage in the mediation in a fashion different than they had been previously; indicate a change of mind/heart/sense of safety/investment; reflect the impact of one or more people on the dynamics of a group or an interpersonal interaction. It has the result of seeming to alter the course of the mediation.

words of each of these players as they commented on their experiences of the mediation and, specifically, of the NRS segments.

How Each Player Experienced the NRS: In Their Own Words

This section explores the ways in which the participants, the mediators, and the coordinator experienced the NRS. While some reactions are unique to each person, all in the end, pointed to at least one shared aspect of how they experienced the NRS: they were not willing or able to continue to engage in its development as a narrative. The comments made by the players in their interviews shed some light on this and their other experiences of the NRS; and these are examined below for each player, in turn.

Melissa is glad that the NRS is raised; although she had anticipated that it would be a difficult conversation and she had not wanted to be the one to raise it. In her interview she reiterates her comments from the mediation—that she had been concerned about discussing race-related issues/racism for three basic reasons: 1) it is seen as something which one has to prove and she is not able to prove it; 2) it positions her as someone who is trying to make excuses; and 3) by raising it she frames herself as a victim. The result is a narrative trap which Melissa sees herself in with regards to discussing race-related topics. The first concern is imbedded in a rules-based construction of racism which requires “proof” to be seen as legitimate (Delgado and Stefancic, 2001). And all three concerns are grounded in the dilemmas inherent in conflict narratives (Cobb, 1994): in order to articulate the presence of a conflict (like racial isolation or racism), it is most common to negatively position someone as responsible for generating and maintaining this condition. Melissa seems to have been unable to effectively engage in storytelling about negative racialization without picturing the need to negatively

position her neighbors, herself and Gladys and/or the management. She was unwilling to negatively position either herself or Gladys with regards to the NRS; (and she maintains an ambiguous stance with regards to the neighbors' positionings. She sometimes negatively frames them and sometimes articulates sympathy for their needs). All of this appears to leave her without a sense of how she can comfortably elaborate on the NRS. Below are excerpts from Melissa's first Follow up interview in which she illustrates the dilemmas she faces in discussing the NRS.

Excerpt 1:

Melissa: "Even for Paula it was hard for her to explain to her [Gladys] my situation as a Latina...It took her a couple seconds to figure out exact question to formulate her my situation in that specific building in that specific apartment between all the White, umm—senior citizen people...I mean, it was hard for me and now was hard for her to explain it back."¹⁵⁶

Leah: "What do you think about her bringing it up now?"¹⁵⁷

[Pregnant pause]

Melissa: "Hmm. [Thoughtfully sucking in air.] In what sense? I mean that's part of it, I think she should have know part of it. I mean, she didn't really know [pointing at the videotaped of the mediation on the TV screen with eyebrows raised]."

Leah: "She?"

Melissa: "Gladys. After—Before that she didn't really know what was happening...because she's new...So she didn't really knew how they were putting people there."

¹⁵⁶ Italics symbolize that emphasis is placed on the words by the speaker.

¹⁵⁷ By this I meant, "Looking at it in the present, now what is your opinion of the fact that she had brought it up?"

Here, Melissa ambivalently frames Gladys as not responsible since she did not “really know what was happening.” This reveals the difficulty in narrating the NRS as a conflict story since Melissa demonstrates that she is not willing to negatively position Gladys in the NRS.

Excerpt 2:

Melissa: “I clarified that I didn’t approach the subject that I was Latina...For everybody. I mean, I did not want them to think that I was putting up all these obstacles—’Oh because I am Latina, I am single parent it is happening to me [voice is deep and serious]. It shouldn’t be happening to me.’ I didn’t want to play that position, you know. I just wanted them to know I feel uncomfortable there because I noticed this and this and this.”

Leah: “‘This and this and this’ meaning?”

Melissa: “Meaning I am the only young parent there. There are senior citizens around me. _____ [daughter’s name] doesn’t have friends to play with. And I am very isolated from where I am supposed to be.” [She chuckles a little with frustration in her tone.]

Leah: “Where are you supposed to be?”

Melissa: “I mean, where everybody is supposed to be, you know what I mean. Because when I got there I noticed I wasn’t supposed to be there.”

Leah: “What did you?”

Melissa: “what I mean by that is that there was nobody in the same situation as me like single parent with kids. It doesn’t matter the race, but there were no kids around. I mean, everybody was senior citizens and”

Leah: “uh hmm. So, what I am noticing is about what you’re saying, correct me if I’m wrong, is that to talk about your ethnicity as a Latina is to create an obstacle because you said ‘I didn’t want to create an obstacle by bringing up all these things I just wanted to tell them I was young and a parent among other—”

Melissa: “it is not an obstacle, it is just like an excuse. Use my race—my, my ethnicity as an excuse”

Leah: “you didn’t want to bring it up as an excuse”

Melissa: “exactly. Because every time when you talk about race and all these other it always becomes more [pause] difficult to deal with the issue, you know what I mean?”

Leah: “Who are you concerned it would be difficult to deal with?”

Melissa: “Well, with me, personally, and with the management. ‘Cus I don’t want to blame anybody for being racist. I don’t want to blame anybody to—for being racist, you know. That’s something that—that you perceive and how can you prove that?”

Leah: “So, if you had brought it up then you would think that it might be an obstacle between you and Gladys to talk about? Is that what you’re saying?”

Melissa: “Not an obstacle, but something difficult to deal with.”

Leah: “Uh hmm. But you said a couple minutes ago that you’re glad that Paula brought it up”

Melissa: “[immediately] yeah”

Leah: “but you didn’t want to be the one to bring it up. Is that correct?”

Melissa: “Uh hmm.”

While Melissa had been “relieved” (Follow up interview #2) when Paula had brought the NRS to the table, Gladys’ only had negative experiences with the conversations about the NRS during the mediation. She describes with great emotion how she had felt when it was talked about and how she viewed Paula as a troublemaker with her own agenda when she raised the NRS. Despite her passionate claims that it was inappropriate for discussion and unrelated to the mediation, twice Gladys paused to reconsider her views. At points in both interviews she recognized that it was a possibility that Melissa had raised the topic in a private session and that perhaps it had been something which needed to be talked about. If this had been the case, she argued, then it would have been helpful for her to know so that she could have engaged in the discussion knowing it was Melissa’s concern not Paula’s.

Below are excerpts of Gladys' first interview which occurred while watching the video of the mediation.

Excerpt 1:

On the video: Paula raises the issue that Melissa was the only Latina living among White elderly people.

Gladys: "It was her [Paula's] putting her own thoughts in on it and maybe causing more trouble than initially was there...I know I didn't like it. Because we're just trained not to like it...ahh, we're trained ta not ever discriminate...that we treat everybody exactly the same. And that, you know, we do. And I have been doing it for so many years that when I heard her [Paula], I don't I don't I—I didn't remember it but I do remember that when I heard her say that I thought 'Oh, oh, she shouldn't have said that' 'cus it wasn't the issue it was strictly—I'm sitting here figuring it out with you—[Gladys ponders] because Melissa could look around and see what ahh people were there, maybe Melissa told her—that was her [Melissa's] feedback and that it never got to me and here I was pinning the blame on the mediator."

Excerpt 2:

On the video, Paula asks about whether Melissa wants to pursue other options about where to live.

Gladys: "She does seem to me to be causing trouble...now not only do we come for a party but we went way off on a tangent for her [Melissa] and her rotten neighbor (for lack of any better words) [laughs] but now she's [Paula] addressing out of the blue that perhaps we should sit down and re-address where this woman lives. It's like, what?! [Sounding very frustrated and a bit incredulous.]"

Gladys then says in the interview that she remembers thinking during the mediation: "'Wait, a minute, you [Paula] don't know what you are talking about here. You've—you are putting ideas in her head, that maybe she'd be better off living somewhere else. You're blowing this way out of proportion. Umm, let's solve the one we're on and not make more while we're here.'"

Leah: "And the 'one' meaning the party..."

Gladys: "The party, that's all we came for. And yeah, sure, the other one on the side—you got a little background that's all. My only intention was, give a little background, that's—'here's what's going on with this neighbor.' If you have any preconceived ideas about Melinda [sic] well, you sh—if, you're gonna go that route then you should also have some pretty preconceived ideas about her neighbor and let's make it fair. Umm, but I—I was mad. And I am mad again! That—that she's movin' her! There are whole transfer policies. And plus if you moved her you were saying 'yes, you don't belong here with the elderly people and the White people. You're going to move over here to'—and that is so—and that's blockbusting and stealing and I'm not gonna put up with that!!"

[As she says this last passage, Gladys is more animated in her voice and body language than at any other time during the interview.]

Excerpt 3:

Gladys: "It felt hurtful that she [Paula] inferred that I put her in a special spot, perhaps, on the property."

Excerpt 4:

Gladys also states that when Paula had used the word "Latina" that it had "bothered" her. Gladys was even more "bothered" when Melissa pointed out that she had not brought up "White people," as Gladys put it.

Leah: "Did you like feel she was [pause]"

Gladys: "attacking me..."

Leah: "Help me understand why..."

Gladys: "I felt some credibility undermined. That ahh, you know, there was no 'White issue'—that was never brought up. I felt angry at her [Paula] too; why are you causing trouble. I mean, it was like, and you're the mediator and—and I felt attacked that I had discriminated, you know, I'm the one in charge over there."

Excerpt 5:

Paula says on the video, "I'm wondering if umm, any of you, knowing that this is not a choice, it have not been chosen by any of you...if you have any ideas about what you wanna do about this?"

Gladys comments in the interview: "She's deflecting how strongly she feels by saying, 'Now, we know you didn't do it but we're still gonna'"

Leah: "did you believe her?"

Gladys: "No. Huh, umm. I didn't. And I didn't believe it then and I don't believe it now...[laughs]."

Leah: "She was"

Gladys: "softening it so we could discuss it."

Excerpt 6:

On the video Paula asked if there were other options. Gladys responds on the video saying, "Melissa, you have every right to live right where you live and you can't move."

While watching this during the interview, Gladys says:

"What I meant by 'You can't move' was—you can't [pause] succumb to other people's prejudice and move because you won't stand up and take what they dish out and say you have the right to live there and you're gonna take it and you're gonna fight them—if that's—if they're discriminating the—you can't move. We're not gonna and not meaning 'we' the company—but meaning her and me—we're not gonna play this game and all somebody has to do is say 'We don't want—like Latinos, we don't like Chinese, or we don't like Indians' and then Gladys says, 'Oh, oh, I understand' and then 'I'll move you'...No way! You're not moving...I'll go live with you' [laughs]...And you can imagine how I felt about her [Paula]...I'm still mad at her [laughs]. And here I am spewing about my policies because I am afraid to address the real issue here."

Leah: "What's the real issue?"

Gladys: "The real issue is the discrimination issue...because it was safer. To say that the policies won't allow you to move because I knew that I could stop her there. But that was wrong! I was settling...You know, if we have five good reasons we don't transfer and the first one [that we don't discriminate] I ignored because of her [Paula's?] race...because I thought, 'Forget that. I will never make her to understand and, you know, I'm not even going to go there and [also because of the late hour] close this up as fast as we can'...and I didn't want to draw attention to something that didn't exist."

For the first time, we hear Gladys being ambivalent. Overall, it seems clear to her that the topics of race and racism are irrelevant, but she does briefly question that assumption. This ambivalence is reflected by her opposing comments: how “the real issue is the discrimination issue” and how she “didn’t want to draw attention to something that didn’t exist.” Besides Gladys’ anger and slight ambivalence, she also appears to feel trapped by discussing the NRS. As is the case with Melissa, Gladys views a discussion of the NRS as inherently requiring that she be negatively positioned. Therefore, after momentarily considering the possibility that racial discrimination is present in Melissa’s neighborhood, she immediately dismisses it. She cannot see how it can exist without her being blamed and since she is morally against racial discrimination and appropriately applies the rules and laws, then how can it exist? Once she exclaims this to all, she uses the narrative of Rules to end the discourse on NRS.¹⁵⁸

Robert also saw Paula’s attention to the NRS as a sign of her own agenda. He saw the discussion of Melissa’s Latina identity as a reflection of either bias in favor of her or as a projection of Paula’s own needs and perspective. He felt that the concentration on the context of the housing arrangement, specifically the relationship between Melissa and her nextwall neighbor, was irrelevant to this particular mediation and better postponed for revisiting when Melissa and the neighbor had their own mediation. He also perceived the focus on the NRS and the larger context as time-consuming barriers to reaching a successful resolution during this mediation.

Excerpt 1:

¹⁵⁸ The fact that Gladys purposefully used the Rules Story to accomplish the demise of the NRS is explored further in Chapter Five.

Robert: "At the time I was thinking, 'How long are we gonna spend [laughs] on the other tenant issue and how much is that relevant to their mediation?' So, I made the judgement to try to steer them [the mediators] or direct them into focusing on Gladys and Melissa and as—as I said, the other tenant is another step—perhaps...Thinking about time...maybe it had taken longer then it could have."

Excerpt 2:

Robert: "I was starting to feel frustrated with Paula's methodical trying to think through exactly what they should be doing...it seemed to be taking too much time...I can recall feeling frustrated and I am frustrated again watching it [laughs]. Umm, I wonder whether that influenced them at all, I mean, I think that I nudge a little more coming up so we'll see."

Excerpt 3:

On the video Paula says: "Well, the problem is that Melissa it's that Melissa's ahh first language is not English. And [laughs] a—we have to clarify a lot!"

Robert stops the video tape and says with a smile:

"I—I really remember that Paula seems to be identifying clearly with Melissa as a Latina. I wondered if it was some bias or [pause] over-partiality [said with a question mark] perhaps that she was voicing. And her need for clarification—maybe more Paula's need than Melissa's need. That was my question...Paula's response is, 'English is not her first language so she needs more time to explain so she naturally needs more time.'"

Leah: "A—And you—your reaction was, 'I wonder if that is Paula's need or if Melissa's'"

Robert: "projecting on Melissa."

Both mediator have dramatically different responses to the NRS segments than the other players. While watching the videotapes of the mediation during their interviews, both Caitlin and Paula consistently demonstrate interest in, enthusiasm for, and confidence that the NRS was of importance and that it was a positive thing to have discussed. Their responses to watching the NRS segments are animated and the only negativity associated with it is that the NRS had not been talked about further. They both

express concerns, in particular, that it had not been first discussed with Gladys in a second private session before it was raised with her in the final joint session.

Paula and Caitlin explore in their joint and their individual Follow up interviews the different reasons they saw for why the NRS was not elaborated upon further. One significant barrier to pursuing this story further was the pressure they felt from Robert to rush. This they saw as part of his pressure on them not to explore the broader context, this clashed with their determination that this was crucial to understand the living conditions within the apartment complex in order to fully meet Melissa's needs since it was a source and the site of the conflicts. In their interviews, the mediators ponder whether Gladys truly wanted Melissa to be happy, having heard comments to that affect during the mediation. If this was so, they point out, then it reinforced their original beliefs that discussing the context—the NRS, the relations between the neighbors, Gladys' role as the manager in this, and the connections between all these topics—would have been fundamental to creating a positive future for Melissa.¹⁵⁹

Caitlin and Paula do not talk about how they felt when the NRS was being discussed. However, they do discuss with great frustration Robert's interventions to end these discussions. These they experienced as intrusive, unwelcome, and as redirecting them off the course they had determined was best, both for the participants and in order for the mediators to talk and plan together. They speak with frustration about responding to his time pressure and how this affected the route they ended up taking with regards to

¹⁵⁹ The mediators do not seem concerned with discussing the context or the NRS in order to help Gladys create a positive future for herself. Were they only concerned with Melissa at these points? Did they see the discussion of the NRS as related to Melissa's dilemmas and not Gladys?

the NRS. The excerpts below frame their reactions to and understanding of the emergence and role of the NRS in the mediation.

Excerpt 1:

Paula: "When she [Melissa] said, 'these people' before...since before I imagined that there were also issues related to that [racial isolation and racism]. Because she is very young and she's single mother—and that's generally a stigma in this society. [Sighs.] So, ahh, for me, it meant it pointed to two things. One, that it had to be said. And that my saying that, you know, asking and, you know like reaffirming that I knew this is happening was in a way a relief that, you know, it's said. But at the same time...[re-enacts Melissa's sigh and dropping of shoulders that had just been witnessed on the video]..it meant—like—it's really heavy. It's a"

Caitlin: "really big"

Paula: "stressful."

Paula: "I think it is critical information in the sense that it feeds into the context in which she is living and the conflict she has with this neighbor."

Caitlin: "It was important because Paula asked the question...I was wondering how isolated she was...Was she the only student? Was she the only single parent? Umm, was she the only woman of color? Student of color in the complex? So, I had those questions in my mind. But that wasn't my next question."

In this excerpt, Caitlin and Paula point out how they could see the relevance and importance to Melissa of raising the NRS. Caitlin also recognizes that while she had, by that point, begun to think about how demographics might be contributing to Melissa's isolation, she had not yet decided to bring it up. Later, Caitlin states that she believes that this is due her White privilege that it had dawned on her later than on Paula.¹⁶⁰

Excerpt 2:

¹⁶⁰These observations were shared during conversations with Caitlin in 2002.

In this excerpt, the mediators recognize that Robert was focused on diverting the mediation away from the NRS; but Caitlin points out that despite their dislike of this tactic, they follow suit anyway.

On the video Robert says: "But in terms of the other tenant it's—it's separate."

After seeing this on the tape, Paula laughs and exclaims: "See—see, he is exactly thinking like Gladys thinks."

Caitlin: "Right."

Paula: "The same way."

Caitlin: "But watch how we respond. [Grinning.] We respond exactly the same, I think."

The mediators seem aware that both Gladys and Robert do not think that the NRS is a relevant or productive topic to talk about in the mediation session.

Excerpt 3:

After watching NRS segment #9 when Paula raises the point that Melissa is the only Latina living among elderly White people, Paula comments in the interview: "I know that that was a touchy thing for her [Melissa]. And I did it on purpose...I wanted Gladys to know that [laughs] I was aware of that and I was going to say it even if she [Melissa?] was not going to say it."

Then on the video Melissa comments that she had not raised the issue of her being Latina. At this point in the interview Paula says: "I would have preferred if [laughs] she didn't say anything. Because that would have allowed that I would say it for her. And I would have been, you know, perfectly happy doing that, if she didn't feel like doing it."

Caitlin: "Well, I think it was important for that to have been said. And—and I do wish that we had had an opportunity to—to bring that—those issues up with Gladys."

Paula: "That's what we needed to do in a private session with Gladys."

Caitlin: "With Gladys. Exactly."

Paula: "Which never happened."

Caitlin: "And if we had been able to bring that up with Gladys in a private session"

Paula: "oh yes"

Caitlin: "there are other questions—other issues we could have explored with Gladys."

Paula: "Oh yeah."

Caitlin: "Like, 'Are there other Latinas in the community?' How is it to manage this particular community?'...But we didn't do that so it—it was still really important to bring up in this setting, I also felt."

Paula and Caitlin find Paula's choice to speak about the NRS on Melissa's behalf worthwhile. While they recognize that Melissa was uncomfortable, they believe it was needed just the same. In effect, they view it as within their responsibility to facilitate the emergence of the NRS even if Melissa is not initiating (or claiming) it and Gladys is unhappy that it is brought up. They also see that they missed the opportunity to take their responsibility for facilitating the narrative into the private session with Gladys.

Excerpt 4:

Caitlin: "If Gladys really wants Melissa to be comfortable and safe and wants her to be part of that community and—and it's a diverse community in—on all those levels—race and parenting and age—umm, then it requires a different sort of attention, I think, on the part of the manager to the problems that happen in that place. That's what I felt we were at least attempting to bring into the mediation process."

Paula: "Oh, we did."

Caitlin: "We did."

Excerpt 5:

After watching NRS segment #12 on the video in which Melissa tells Gladys that "it's like hard to say it. But sometimes that's discrimination!" Caitlin quietly exclaims in the interview [while smiling at Paula]: "Now she's saying it for herself."

Paula: "Very late [pause] in the process but"

Caitlin: "but she's saying it. And it's related—I mean—I—I—I think it's related to what we're putting, what we're helping them put into this agreement. [Laughs.] Which is the next mediation basically. It's in response to the next mediation. Well, interesting—the flag of discrimination gets raised again and Melissa brings it up this time."

Paula: "Hmm."

The mediators believe that the NRS had an important place in the mediation and that it was their role to carve out narrative space for it. They articulate frustration at the barriers to its elaboration when they come from their co-worker, Robert. They seem more tolerant of Melissa's hesitancy and her disowning the topic; and even of Gladys' lack of participation in the NRS. They appear to have believed her that she did want Melissa to be happy and this creates a narrative trap similar to the one which Melissa and Gladys had faced as well: Gladys would need to be negatively positioned in order to be blamed for not engaging in the NRS. And the mediators do not go so far as to do that. Instead, they note her discomfort with the topic and articulate their failure¹⁶¹ to facilitate the narrative process to create more (comfortable?) spaces for these discussions.

¹⁶¹ Caitlin and Paula offer a gender analysis of why they succumbed to the pressure placed on them by Robert. They hold this pressure responsible for the diversion away from both the narrative of Negative Racialization and their plans for facilitating it further. This is explored in Chapter Five.

Interestingly, during their interviews neither explored why it was that Paula and not Caitlin had been the only mediator to initiate the NRS. As mentioned above, Caitlin did state that she had thought about the topic but that it was likely that Paula had thought about it and decided to raise it sooner. However, neither pursued why Paula was the only one of the two to explicitly raise it.

The NRS and the Foci for Each Player in the Mediation Discourse

A look back at the entire mediation unearths where the focus was for each of the players as they engaged in the mediation discourse. In addition, it reveals what place, if any, the NRS had.

Caitlin: Melissa's context, neighbor, parenthood, feelings, relationship/connection, traditional mediation rules

Paula: Melissa's context, neighbor, negative racialization, racial and age components of the context, traditional mediation rules

Melissa: disconnection, false accusations of rules violations, being trapped in context (part of which is based on age, family status, and negative racialization)

Gladys: rules of Meadowlark, Melissa's rights

Robert: traditional mediation rules

The NRS is present on the list of what two of the players (Paula and Melissa—both Latinas) focused their attention on during the mediation. What stands out, as well, is that rules are the entire focus for the two players (Gladys and Robert) who do not concern themselves with the NRS. Rules are also given attention by the other three players. Is it a wonder, then, that the mediation ends with an agreement based on the narrative of Rules and not on the narrative of Negative Racialization?

The Focus of the Agreement and the NRS

The agreement does not directly reflect the fact that the NRS was discussed at all during the mediation. The mutually agreed upon future plans do not account for or seek to alleviate the negative racialization of Melissa and the attending isolation and disconnection which she faces. Instead, the agreement focuses on communication within the individual relationship between Gladys and Melissa and it concentrates on the rules of the complex. Below, the content of the agreement points are abbreviated and highlighted.¹⁶²

1. Communication plan re: future complaints in order to prevent warnings to Melissa; agreement to invoke the rules if there are repeated verifiable complaints.
2. Rules agreed to re: parties, noise, guests.
3. Mediation to occur between Melissa and her nextwall neighbor.
4. Gladys to be informed/consulted re: mediation between Melissa and nextwall neighbor (to ensure their agreement is upheld).

The agreement's concentration on rules permeates each agreement point. For example, Melissa agrees to follow Meadowlark rules already in place (and which she argued during the mediation that she has always followed). The communication plans put in place are to reduce the likelihood of Melissa being accused by Gladys of violating the rules (based on an accusation by a neighbor) without checking with Melissa first. To reduce the tension between Melissa and her neighbor, a mediation is to be set up. In this way, the agreement individuates the problem between Melissa and her neighbors—ignoring the racialized tension and discrimination Melissa feels and has experienced. And

¹⁶² See pages 169–170 for the full wording of the actual agreement.

despite Melissa's wishes that Gladys participate in this next mediation, the agreement point does not include Gladys since that is not part of her job description (rules focus).

The findings presented in this chapter were based on having traced the NRS throughout the mediation: what moves the players made with regards to it, what happened to the content of the story, what role it had in the players' foci, and, finally, what its presence was (or, rather, the lack thereof) in the agreement and plans for the future. As these findings demonstrate, in this mediation case study the full elaboration of the Story of Negative Racialization did not occur; instead this story was effectively marginalized.

Narrative Domination

The findings presented in this chapter illustrate how the NRS consistently succumbs to the discussion of rules. The Rules Stories are routinely raised and facilitated at the same time that the narrative of Negative Racialization is being discussed. Additionally, Rules Stories regularly appear as the discussion of the NRS ends. The narratives on Rules successfully divert attention away from the NRS and Gladys even states that she purposefully initiated a RS as a tactic to end the discussion of negative racialization. The NRS is dominated by the emergence and elaboration of the Stories about Rules. This is compounded by the fact that, overall, the Rules Stories have a tremendous presence in the mediation as a whole. The Story of Negative Racialization is not nearly elaborated upon to the extent to which the Rules Stories are. The Negative Racialization Story is raised at 15 points in the mediation and is engaged with a total of

40x.¹⁶³ Approximately 200 lines in the transcribed text cover these segments. While the societal Rules Story (RS) is engaged over 3x more often than the NRS for a total of close to 4400 lines of text. The mediation Rules Story (MDR) is engaged with about the same number of times as the NRS but those discussions cover about 5100 lines of text. This means that a Story about Rules (either the RS or the MDR) is discussed over 200x in the mediation. The number of lines of text that are involved in these discussions is approximately 9500¹⁶⁴ out of a total of 9817 lines. Virtually the entire mediation includes comments or elaborations on Rules Stories. With the Rules Stories being discussed over 5.5x more than the Story of Negative Racialization and appearing in approximately 50x the amount of text than the Negative Racialization Story does, clearly, the Rules Story dominated the mediation.

At times during the NRS segments, Stories of Rules are explicitly stated and receive support, at other times they are just hinted at and yet, in either case, they seems to dominate in the moment. For example, when Melissa points out that “sometimes that’s discrimination!” and Paula says: “...in the interests of time [laughs] already. Umm, I just wanted to read to you, ahh, what are—my notes about what you agreed to see if we can ahh write it down” (#12). The NRS quickly and quietly disappears as the MDR are introduced and immediately guide the discussion in a different direction. The same conclusion can be drawn when taking a larger view of the entire mediation: the Rules Stories conquer the Story of Negative Racialization. Therefore, despite repeated efforts

¹⁶³ Each “x” represents one person saying something with regards to this story.

¹⁶⁴ Some of these sections overlap.

by Paula, Melissa, and (to a significantly lesser and more indirect extent) by Caitlin, the Story of Negative Racialization fails to fully emerge or be elaborated upon during the mediation. Instead, what prevails are the Stories of Rules—about the individual responsibility for following them, the legally-oriented structures and individuals who enforce them, and the traditional methods, guidelines, and principles for making decisions about mediator moves and for structuring a mediation session. In the end, all four points of the agreement address either rules or the complaints and complainants regarding rules. While there are aspects of the agreement that involve communication, they are framed as methods of preventing problems regarding the rules. Therefore, the domination of the Rules Stories is manifested even in the particularized material form of the agreement.

However, to leave the summary of the findings at this is to take too narrow a view of what occurred in the mediation. In Gladys' and Melissa's second interviews, held months after the session, both said that one of the things that is memorable to them about the mediation is that they had created friendship that had not been there before. While this had been unable to develop very much because Gladys left her position several months after the mediation, both mention that it had been meaningful for the short time between the mediation and when she took another job. This aspect of the outcome of the mediation is a positive memory for both. In these interviews, both Melissa and Gladys comment first on the positive impact this mediation had on their relationship before mentioning anything about rules or the fact that the agreement had been upheld.

Ironically, however, while it is not evident on the surface, a brief examination of how this friendship developed from the mediation illustrates that the narratives of Rules

still played a part. This relationship building is not captured clearly in the agreement, yet it is quite real and meaningful to Gladys and Melissa. It appears from their analyses of the mediation that the reason this change in their relationship occurred is the result of a shift in their views of each other (which I argue is directly tied to the Rules Story).

Interestingly enough, what seems to have taken place is that Gladys viewed Melissa's request for a mediation, (in response to Gladys' reprimand about rules violations), as a sign of being a responsible person. Once Melissa made this request, Gladys stated that she had already seen what she needed to know: that Melissa would be responsible in the future and had taken seriously her threat of eviction if future rules violations occurred. Gladys indicated that, in many ways, she had already gotten what she needed and that her perspective on Melissa had already shifted even before the mediation had begun.

This positive framing of Melissa seems to have been reinforced in the process of mediating as Gladys acquired additional information about how Melissa viewed and experienced what had happened. For example, Melissa presented a story of how she had been so concerned about the threat of eviction that she had not been able to study for two weeks after receiving Gladys' letter. This moved Gladys and by the end of the mediation her framing of Melissa reflected small transformations in her own story about what had happened and how she viewed this tenant. Gladys articulated regret for having caused Melissa the stress she endured due to the letter—thereby reconfiguring her own role in her narration about the past. By the mediation's end, Gladys saw both herself and Melissa as responsible for difficulties in the past; and she positioned them both as capable of being responsible about and in communication over the rules. This manifested in the positive positioning that Melissa was given in Gladys' future story: as likely to be a

responsible person and as someone who deserved rights to housing and the quiet enjoyment of an apartment with her child. This was woven into their joint future story in the agreement.

Melissa encountered quite a different experience. She was the recipient of a change in Gladys's views of her; but what happened to her narration of what had occurred, of her own and Gladys' positions in her narrative, and of what she wanted to have occur? Given that she entered mediation wanting much more from Gladys than Gladys wanted from her, given her position in the apartment complex in relation to Gladys and her neighbors, she began the mediation from a very different starting point than the manager. In fact, during the first Follow up interview while Melissa watches the mediation played back on the videotape, she describes herself at the beginning of the mediation as having felt like a kid who was talking to her mother when she was in the room with Gladys. This only shifted for her when the final joint session occurred and she learned that Gladys now saw her as a good and responsible person. Melissa described this as the moment that caused her to feel no longer like a kid, but rather as an equal. This seems to be directly due to the transformation of Melissa's position from negative to positive in Gladys' narrative.

While this shift is very meaningful to Melissa and seems to have contributed to the building of a positive relationship which both of them refer to as a friendship; it appears to be based within the context of Gladys's narrative so we must ask what happened to Melissa's narrative? Gladys was concerned with the Story of Rules and this successfully emerged, was engaged with and elaborated upon. And within this narrative, Melissa's character was repositioned as positive with regards to the rules. However,

Melissa's stories about connection, disconnection, and her negative racialization are never fully told, responded to, or built upon and, therefore, are not transformed into a coherent and mutually constructed future story. When the mediators seek to engage with and build upon what Melissa wants to discuss during her private sessions, she seems quite eager to describe her experiences of connection and disconnection. But when she is asked about negative racialization as a factor in her experience in the housing situation and in her experiences of disconnection, she gives very ambiguous responses. She comments, at times, that they are factors but that she had not brought them up because she has no proof of racism and does not want talk about that if the result will be that some will think that she is calling the management discriminatory.

As this narrative is pursued in a private, Melissa speaks in convoluted and disjointed sentences and the mediators trip over themselves and each other, interrupting and trying to interpret by putting ideas out and words into her mouth. In both the private and the joint sessions while Melissa does sometimes raise the NRS in direct or ambiguous ways, most often her comments are not followed up on very far, if at all. The results of all these moves, and the lack of others, is that the narrative about Negative Racialization and the role that ethnic, cultural, linguistic, national, regional, and racial identities may have played in her context are barely pursued. Despite this, periodically, a thread of the Story about her Negative Racialization is reintroduced by either Melissa or Paula.¹⁶⁵ Therefore, the NRS is not fully silenced during the mediation, just significantly stifled by its domination; raised only by those who experience its story themselves.

¹⁶⁵ At no time is the NRS originally introduced by any White or Anglophone players in the mediation. Once it is reintroduced and engaged with by Gladys—as an

Contrary to what happens to the NRS, the Rules Story, which is of importance to Gladys, is fully elaborated upon to the point of providing the backbone of the agreement. Part of the results of this are that Melissa is viewed positively by Gladys, just as she had desired. Once Gladys trusts that Melissa will follow the rules and she treats her as if she will, a friendship of sorts is created. They describe their relationship as relaxed and friendly once this shift happens; and after the mediation ends, Gladys and Melissa freely talk about the rules and use of the property (as well as Melissa's homework) and this is a relief to the tenant. However, the other concerns Melissa brought to the mediation—of isolation and harassment due to negative racialization—are not addressed and are still present in her life five months later (Melissa's Follow up interview #2). The success of the Rules Story did result in an agreement both considered fair and a friendship both valued; however, it succeeded at the expense of marginalizing the narrative of Negative Racialization.

Conclusion

Tracing the Story of Negative Racialization in the mediation resulted in the collection of a tremendous amount of data; much of which was presented in this chapter. It provides insight in response to the secondary research questions asked in this dissertation:

1. How is the Story of Negative Racialization addressed throughout the mediation?
2. How is the Story of Negative Racialization challenged or undermined?

immediate Follow up to its introduction by Paula—in order for her to defend herself against what she sees as the inappropriate introduction of the topic of negative racialization.

3. In what ways do the participants, mediators, and coordinator experience the Story of Negative Racialization when it is introduced, discussed, and dropped from the discourse?

The patterns in the ways in which the NRS is addressed (research question #1) reveal that due to the narrative strategies of the players, the Rules Stories dominate the NRS. The multiple attempts made only by Paula and Melissa to get others to talk about (or even listen to) Melissa's experiences of negative racialization are unsuccessful. And despite Caitlin's attempts to keep the related topic of the broader context on the table and her interest in seeing the NRS discussed, this does not produce different results either. These efforts are met not merely by silence and a lack of narrative moves to support them, but by the constant challenge of the Rules Stories upon which, to some extent, all the players elaborate (research question #2).

The players routinely discuss the rules of society and of the apartment complex, as well as the traditional rules of mediation. Raised in the midst of a discourse permeated by Rules Stories, the NRS is subsumed. Routinely, the discussion of Negative Racialization is altered as the conversation is reorganized into a deracialized discourse. The call to attend to context—including requests to pay attention to the NRS—is consistently dismantled. What replaces it is a narrowed focus onto two different levels of rules: abstract rules on a larger scale (Meadowlark Apartment complex policies and U.S. laws) and abstract rules on a smaller scale (guidelines of a traditional mediation to be carried out in this session).

The examination of the players' experiences of the narrative of Negative Racialization demonstrates that its presence or lack thereof caused strong feelings for all (research question #3). Robert and Gladys are deeply frustrated by it as they make

evident in their interviews. They are particularly annoyed at Paula, feeling that she shows a bias towards Melissa by paying attention to the NRS. Both use language—while laughing and seeming to joke—which demonstrates that they had almost felt like they were or would need a mediation with Paula. Robert talks about how he felt Caitlin understood the need to move on and not concentrate on the context and that it had been as if the two of them were the mediators trying to bring Paula on board. Gladys is mad at Paula for “causing trouble” and states that Paula would have to come up with a pretty good reason to convince Gladys why she had done what she had done by bringing up the “White issue” or else they would need to go to mediation.

Yet, in various ways, Melissa, Caitlin, and Paula all articulate during their Follow up interviews that they think the discourse on negative racialization and its relationship with the broader context of Melissa’s living situation “was a relief” (Melissa), is “important” (Caitlin), and is “critical information” (Paula) to discuss. In addition, all three either imply or directly state that the NRS needed more elaboration and that since that did not occur they felt they had not fully uncovered or dealt with the entire conflict or built a complete resolution.

The Story of Negative Racialization influenced the experiences of the players in this mediation. Whether the players were struggling to dismantle it or struggling to elaborate on it and get others to do the same, its presence made an impact. All the players agree on that. What meaning can we make of the different experiences that the players had with regards to it? What value can we gather from the data collected on the narrative strategies people used which kept the story alive or successfully challenged the NRS? When we examine the mediation outcomes as named by the players—the agreement and

the interpersonal relationship between Melissa and Gladys—what impact did the domination of the NRS have on this? When we look at the power of the Stories of Rules as we consider the fate of the NRS, what can we learn about the challenges of successfully elaborating on a Story about Negative Racialization? And finally, what can we learn from this mediation session to inform a practice concerned with undermining racial privilege and promoting racial justice? These are some of the questions tackled in the next chapter.

CHAPTER 5

“WE HAVE POLICIES...”: AN ANALYSIS OF THE DOMINATION OF THE STORY OF NEGATIVE RACIALIZATION

Introduction

This chapter provides an analysis of the significant findings using both narrative theory and critical race theory. A critical interrogation of the centrality of the Rules Stories¹⁶⁶ in this mediation and how they dominated the Story of Negative Racialization is undertaken. Against the backdrop of a mediation field committed neutrality, what sense can we make of the systematic marginalization of the discussions of Negative Racialization by the narratives of Rules? And returning to the research question first posed, what can be learned from this inquiry about how mediation can interrupt racial oppression through narrative facilitation; thereby creating a more socially just practice?

The analysis in this chapter examines the marginalization of the Story of Negative Racialization (NRS) by the Rules Stories. It purports that the successful domination by the two Rules Stories (RS and MDR) over the NRS, fundamentally, was a product of their resonance with the grand narrative of rules in society.¹⁶⁷ As discussed in Chapter Two, the grand narrative utilizes a colorblind approach to the imposition of symmetrical

¹⁶⁶ I provide a reminder here for the reader: the Rules Stories, as indicated in Chapter Four, are made up of the stories of 1) the “Rules Story”(RS): rules outside of the mediation such as Meadowlark’s policies and U.S. laws and 2) the traditional mediation procedures and guidelines (MDR). Throughout this chapter I specifically identify to which story about rules I am referring. When both stories are being referred to, they are called “the Rules Stories.” This is not to be confused with the “dominant narrative of rules” which refers to the larger narrative in society as a whole under which both these stories told on the local level find a home.

¹⁶⁷ The terms grand, master, and dominant narrative are used interchangeably in this chapter to refer to the dominant narrative of rules in society.

procedures and standards, thereby not accounting for the realities of racism. And this grand narrative routinely manifests in the mediation through the Rules Stories and the narrative strategies relating to rules employed by the players. Therefore, the grand narrative of rules is imbedded both in the content of the conversations in the mediation and in the narrative moves which disrupt the NRS. In this way, the master narrative fundamentally contributes to the domination of the NRS in this mediation case. What results is a process and outcome which fails to contribute to challenging the negative racialization of Melissa. Therefore, while the process of story facilitation in this mediation briefly acts to disrupt racial oppression, more fundamentally it serves to reconstitute it.

The domination of the NRS by the Rules Stories, is then, directly tied to the hegemony of the master narrative which is replicated through the process of story facilitation. Therefore, an understanding of the dynamics of story facilitation is central to analysis of the domination of the NRS. The organization of this chapter begins with an examination of the story construction of the NRS and the two Rules Stories (the RS and the MDR). Using narrative theory, the elements of story construction are explored for each, in turn; demonstrating the failure to construct a complete story in the case of the former and the success of story facilitation for the latter. Then, the relationship of narrative domination between the NRS and the Rules Stories is explored. Critical race theory is used to analyze how and why the facilitation of the Rules Stories was more successful and effectively lead to the demise of the NRS; as well as to understand the racialized implications this had for those involved in the mediation. Moving beyond the processes of narration and of story facilitation during the mediation, I explore the impact

on the future relations and lives of the participants given the presence of this narrative domination in the agreement. Implications for the analysis of this case are explored in the final section of the chapter.

A Narrative Analysis of the NRS

A narrative analysis of the NRS illustrates the failure to facilitate a fully constructed story of Negative Racialization in this case study. Those narrative dynamics which help to solidify a story's structure and protect it from being dismantled are explored: narrative coherence (the completeness of a story and its cultural resonance), narrative closure (its protection from being interpreted differently), and narrative interdependence (the intertwining of negative and positive positioning of the characters in a story). A careful examination of each dynamic illustrates how the discourse on Negative Racialization was able to be systematically erased from the conversation.

The Story of Negative Racialization was never fully developed, engaged with, or elaborated upon and this meant that it could not be transformed from a story of conflict to one of resolution (Cobb, 1994). For Melissa, the experience of being negatively racialized clearly caused stress and conflict and yet this story was not sufficiently described or dealt with in the mediation. She states in her final follow up interview that racism is still a difficult reality of her living situation; one which the mediation did not resolve. However, Melissa was not the only player to consider the lack of story development of the NRS a problem. Both Caitlin and Paula talk in detail about their disappointment and frustration that more was not accomplished in getting this story told (Follow up interviews #1 and #2). The possibility for transforming this conflictual narrative into one containing less conflict had not been seized and they saw this as a lost

opportunity. Gladys also spoke to this; she wished she had known whether or not the issue of racism had been a concern of Melissa's or whether it had been merely Paula's (Follow up interview #2). Did this mean that there had been potential for further discussion (story development) even with Gladys and could this have led to a transformation of the NRS? These comments made by the players certainly raise questions as to the unrealized potential for engaging with this story.

The Story Components of the NRS: Chronology, Characters, and Themes

Chronology, characters, and story themes were often only hinted at or mentioned with no further exploration or investigation. Descriptions of what people had done, how they felt, and how they saw others were sorely missing. In addition, the findings show that there were only a few references to the chronology in the story segments. For example, Melissa referred to having written a letter to Gladys prior to the mediation in which she had decided to edit out the part about being Latina. This was one of the very few explicit references to chronology; however, there were a few comments made about the present, as well. One such comment was when Paula stated her belief that Melissa's participation in the mediation was being influenced by her speaking in a second language. Caitlin also provided a brief mention of the NRS in the present tense when she contemplated Melissa's fear of discussing discrimination with the administration. As for the future, Melissa made a few statements such as when she told Gladys that, in response to the discrimination that is occurring, there should be workshops about being a good neighbor.

These are only hints at a chronology that is dismally underdeveloped. There was limited discussion of the characters in this story as well which severely weakened the

story structure since, as described in chapter three, a conflict story is commonly constructed by positioning the characters interdependently. Typically, the speakers places those who created the problem in a negative position and those who are not responsible for the problem's creation are framed as their victims—in a positive position. As part of this interdependency, it is quite common for the speaker to attribute negative intentions to those characters responsible for the conflict while, simultaneously, framing herself as well-intentioned (Cobb, 1988). However, in this case, there was very little said about the characters involved (i.e.: the neighbors, Melissa, the management, Gladys) and there was no further development of their negative or positive positioning.

Narrative Closure, Coherence, and Interdependence in the NRS

The discussion of character roles in the NRS was close to absent and there was virtually no conversation about the negative or position positioning of these characters with regards to Melissa's negative racialization. The failure to develop character roles and positioning resulted in a relative lack of narrative interdependence and this influenced the narrative coherence and narrative closure of the story. Without a complete story—in fact, with a severely underconstructed story—each segment of the storytelling of the NRS was vulnerable to alternative interpretations. And this was continually played out in the discourse as the NRS was avoided, reframed, or dismissed.

This occurred, for example, when Paula raised the point that Melissa was the only Latina living surrounded by elderly White people in her complex (NRS segment #9). After having said this, no one responded with further development of the plot, characters, or the meaning of this for Melissa (or Gladys). This did not become an entre into a conversation about how Melissa experienced racism and how that was tied to why she

had come to the session with the manager of her apartment complex. Instead, an alternative interpretation was offered and quickly undertaken as the focus of the discourse. Gladys responded by stating that this housing circumstance occurred without her knowledge and without a violation of rules and laws. Through these comments, the topic changed to rules and was directed away from the exploration of negative racialization. The character under discussion (Gladys) was framed aracially and positioned positively in this engagement with the Story about Rules. After a brief narrative struggle by Paula and Melissa against this shift in the narration, there was a continuation of the alternative interpretation. The aracial Rules Story is then expounded upon and further facilitated. This alternative description proved to be successful in diverting the narration process from construction of the NRS.

Narrative theory helps to explain how a shift to this way of viewing the circumstances was so easily maneuvered. Without substantially formed negative characterization to combat, Gladys was quickly able to assert herself as a well-intentioned and law abiding manager. She did not even spend time considering aloud the possibility that the neighbors were behaving in a racist manner. There had been such little negative characterization of them as manifesting racism that, it seems, she did not feel the need to respond to it. This is a sign that there was virtually no narrative closure with regards to the role, chronology, and meaning of the characters in this segment of the NRS. These dynamics were replicated throughout the mediation whenever the NRS was raised, resulting in a series of story fragments easily ignored. In this way, the NRS lacked one of the two elements of narrative coherence: the necessary components of a complete story.

The other element of narrative coherence is cultural resonance and this was missing as well. A significant reason for this was its lack of cultural resonance with the grand narrative of rules. Melissa's description of her concerns about racism did not include those elements required by the grand narrative: descriptions of evidence to prove intent or disparate implementation of laws or policies (Crenshaw et al, 1995; Flagg, 1997). Instead, they were grounded in her own experience and perceptions as well as her comparisons with others who lived in similar circumstances:

Melissa: "I'm like, because then I started thinking and I have talked to other people and then I'm like, 'So, where I live is the same situation!' I'm like, well sometimes, you know that sometimes, it's—it's hard to say it. But sometimes that's discrimination!" (NRS #12)

This story segment offers no hard evidence of racism which could be validated by the standards imposed by the court. What law was broken? Which housing policy was applied unfairly to Melissa? Where was the proof of intentional malice based on race? All of which could be considered necessary components of a legal claim of racial discrimination (Flagg, 1997). Therefore, the Story of Negative Racialization did not reflect what is valued in a legal discourse about racism.¹⁶⁸ Therefore, Melissa's comments about racism would have needed to reflect the legal definitions of racial discrimination to be legitimated by the dominant narrative of rules. Without such cultural resonance, according to narrative theory, the story is left vulnerable to alternative interpretations; particularly those which do contain such cultural resonance.

¹⁶⁸ And, as discussed in Chapter Two, the legal discourse permeates the larger discourse in society thereby creating the grand narrative of rules (Althusser, 1971; Delgado and Stefancic, 2001).

Legal doctrine offers to a very narrow definition of what constitutes racial discrimination, placing most social practices outside of the realm of illegal behavior and requiring that a complainant prove that discriminatory actions were made based on the criteria of race (Crenshaw et al, 1995). However, Melissa's experiences of social isolation and having a nextwall neighbor incessantly bang on the wall and curse at her are not categorized as racial discrimination according to the master narrative of rules. Without being articulated according to the master narrative, they lack the necessary resonance with this important story found in the culture at large (Montoya, 1998; Perez, 1993; Winslade and Monk, 2000).

The grand narrative frames racism as a deviation from the norm and (Delgado and Stefancic, 2001) and places the burden of proving that it exists, (according to legal criteria), on the people who are targeted (Haney Lopez, 1996). Their narratives are then judged against measurable standards by jurists who are responsible for assuming innocence. The very structure of this enterprise serves to perpetuate racism: framing legal decision-making around the concept that racism is an unusual circumstance in a society in which racism has yet to be dismantled. Beginning with the assumption that racism is unlikely and then utilizing strict definitions of acceptable evidence to demonstrate proof of racial discrimination results in "reproduc[ing] the structures and practices of racial domination" (Crenshaw et al, 1995, xxv). Therefore, while arguing for a colorblind approach to the law, the grand narrative actually reinforces the existence of racial bias. And this is inevitable since the tenets of "race neutral decision-making" (Flagg, 1997) by the court, for example, do not reflect the realities of those targeted let alone make them central to the project of handling complaints of racism (Matsuda, 1995). Ironically, while

race neutrality is the claim of colorblind jurisprudence, such an approach in a racially stratified society offers limited access to proving the existence of one's own racial oppression.

The realization that the master narrative can create an impact on the course of a mediation session¹⁶⁹ presents a challenge to the mediation field which has championed this form of conflict intervention; because mediation is touted as offering what the formal legal system cannot: a process which does not rely on standards, but rather provides all parties the freedom to fully describe their experiences and make their own decisions (Bush and Folger, 1994; Fisher and Ury, 1981; and Goldberg, Greene, and Sander, 1985). Yet, this promise does not appear to have been met in this mediation, given that rules remained a determinant of what could and could not be discussed in this forum and that the NRS was systematically marginalized because it did not resonate with the dominant narrative of rules.

The constraints that the master narrative put on legitimized storytelling about negative racialization appears to have been clearly understood by both Paula and Melissa. They described how they expected it to be difficult for the NRS to be taken seriously or even discussed during the mediation (Follow up interviews #1). For example,

Melissa: "Every time when you talk about race and all these other it always becomes more [pause] difficult to deal with the issues, you know what I mean?"

Leah: "Who are you concerned it would be difficult to deal with?"

¹⁶⁹See Cobb (1994) and Winslade and Monk (2000) for more on the relationship between dominant narratives in society and mediation.

Melissa: "Well, with me, personally, and with the management. 'Cus I don't want to blame anybody for being racist...That's something that—that you perceive and how can you prove that?"

(Follow up interview #1).

Melissa appears to be aware that others are not likely to find the discussion of her negative racialization a legitimate story given that it does not contain the necessary elements required by the grand narrative. She seemed to recognize the lack of cultural resonance it would have; feeling that it would prove a futile effort to discuss it.

Therefore, for the NRS to have had cultural resonance as a story about racism, it would have needed to reflect the dominant narrative of rules. But Melissa offered no verifiable proof of racially disparate treatment by her neighbors; and, despite the fact that no one had accused Gladys of racism, she defensively argued that she had been colorblind, applying the policies to all the tenants equally. These comments by Gladys provided another explanation (not based in racism) for why Melissa was located where she was and they ignored Melissa's experience of racism by her neighbors. And this alternative description quickly and effectively redirected the conversation to the policies and their implementation demonstrating the weakness of the story structure of the NRS. This lack of cultural resonance compounded the lack of narrative closure due to the missing story elements. Overall, result was a story which was—to put it bluntly—not compelling enough to be listened and responded to for some¹⁷⁰ and not powerful enough to ward off the domination by the Rules Stories for all.¹⁷¹

¹⁷⁰ I describe the NRS this way because it was made quite clear that Gladys and Robert were not compelled by this story. For example, both saw it as irrelevant and a threat to the success of the mediation process. Gladys felt it undermined her credibility

While narrative coherence was weak and narrative closure was virtually absent, was it possible to transform this fragile structure and create a future story out of the NRS? One effective strategy often used to assist with story transformation is externalization. This discursive move is accomplished when the speaker states that neither participants is the origin of the conflict (Cobb, 1994; Winslade and Monk, 2000). In effect, externalization is the narrative act of moving the responsibility away from the parties and locating it outside their relationship. When this occurs, there is a shift in the narrative interdependence; one participant is no longer positively positioned at the other's expense (Cobb, 1994). Externalization can create openings for alternative interpretations which often decreases the intensity of a conflict; especially if a lack of intention to harm is uncovered. This process, however, seems to be contingent upon there being a well-established interdependence between the characters' positions in the story. Therefore, what meaning can we make of the fact that in discussing the NRS both Melissa and Gladys externalized the problems and yet they had not first created conflictual and interdependent character positions for each other in the NRS? First, a couple of examples of how they employed externalization and then an analysis.

Melissa: "I am in a position that I wanna give them their peace but then I'm feeling uncomfortable because this other lady is not giving me the b-r-e-a-k of living my own life [sounding annoyed]. And I have the right to live there as a normal [read: White?!] person—normal young parent with a three-year-old kid" (NRS #2).

and Robert felt it interfered with the procedure of agreement building on the topic Gladys had raised and Melissa had stated that she wanted to respond to: the rules violations.

¹⁷¹This is not to assert that no one could have taken action to more effectively strengthen the NRS or to ward off the Rules Stories. This is explored further in the chapter.

Here, Melissa had framed the problem as emanating from the neighbors not from Gladys. The manager similarly externalized the conflict as outside her relationship with Melissa and placed it on the neighbors when she said: "Those elderly people who live there are going to have to get along with you and your daughter. Or, [small pause] they can move!" (NRS #11). In the final episode of the NRS, Gladys externalized the conflict by placing blame on the season:

Gladys: "Melissa, how—how is all the other residents down there? Are they pretty—they're a good team?"

Melissa: "I don't know anybody..."

Gladys: "Yeah, especially more—more so in the winter...People don't come out as much" (NRS #13).

Gladys' and Melissa's externalization of the conflict was not significant enough to create the foundation for a future story with regards to negative racialization. How could this story be transformed as non-conflictual if it had not yet been fully told? Despite the fact that the two participants had chosen to externalize the conflict and place it onto the neighbors, Melissa's and Gladys' own negative positioning, as well as further discussions about the neighbors' positioning, needed to be explored before the story could be effectively transformed to one in which the conflict was being jointly being dismantled.

While the use of externalization is promoted by some mediators who want to help participants transform the way they are negatively positioning one another (Cobb, 1994; Winslade and Monk, 2000), interestingly, in this case, externalization not only did not effectively lead to story transformation but it actually helped to undermine the NRS further. The externalization process was used as a narrative tool to divert the

conversation, effectively contributing to the termination of conversation about Melissa's negative racialization.

The failure to elicit and narrate all the necessary features of a story left the NRS miserably weak and susceptible to the powerful challenges presented by the Rules Stories. However, before leaving the narrative analysis of the NRS, it is worth noting that there were several other opportunities for elaborating on this story which existed outside of the NRS segments. Because the NRS was not discussed in isolation but was intertwined with Melissa's response to Gladys' concerns about the rules (the RS narrative), there was information from the RS which could have helped to expand the discussion of the NRS. Therefore, the chronology and characterizations present in the Rules Story could have been incorporated into the facilitation of the Negative Racialization Story.

For example, Melissa described feeling disconnected and isolated from her neighbors. She spoke to the fact—albeit in a truncated way—that the nextwall neighbor was probably the one who made false accusations against her. These comments could have provided a backdrop for the NRS. Had a conversation ensued on these subjects it could have exposed the connections between these comments and negative racialization and it may have helped to fill in some of the information gaps in the characterization and chronology of the NRS.

There also were missed opportunities for further exploring the plot of the NRS. Two themes had emerged within this fragile story which could have been developed further:

1. Melissa was isolated and mistreated by neighbors because she was negatively racialized¹⁷²
2. Melissa was concerned about raising this with Gladys both at the mediation and, in general, because she feared that Gladys would experience that as unfounded accusations of racism and Melissa feared that she would be seen as framing herself as a victim.

Despite the presence of these two skeletal themes in the NRS storyline, they were not elaborated upon at all. In fact, Melissa actively self-censored her participation in narrating them and an environment was not created conducive to her describing in fuller detail how the people involved were positioned with regards to racism.

Melissa's fear of talking to Gladys about racism implies that, at the time of the mediation, she saw Gladys as not to be trusted to understand or help her with the problem of racism. However, it was also evident that she wanted Gladys to have a positive position in her future—she wanted Gladys to help monitor the nextwall neighbor and to attend their upcoming mediation session as her ally. Additionally, she wanted Gladys to help set up workshops on neighborly conduct. The positive future roles Melissa had constructed for Gladys were never asked about or explored, let alone built upon. In this way, there were specific opportunities which had been missed to hear from Melissa about what had occurred, what she wanted, and what meaning this had for her; all elements of a conflict story.

And what of Gladys? Had the NRS been more fully cultivated would she have been more interested in engaging in it and exploring it from her perspective? Given that

¹⁷²It is possible that this is not the sole reason that Melissa was treated in this fashion by her neighbors. As was pointed out earlier, other aspects of her identity such as her age and parental and student status were factors to consider as well.

Gladys expressed concerns for Melissa's happiness and mentioned that she would have liked to have known if racism had been on Melissa's mind, it is quite possible that she would have engaged in the NRS more fully had she been faced with a substantially more developed story. In fact, from some of Gladys' comments later in the mediation it is evident that she allowed for the possibility that the neighbors had exaggerated their accusations against Melissa. All of this indicates at least two possibilities: one, that she could imagine negatively positioning the neighbors, and two, that her belief that negative racialization was not a factor might have been vulnerable to reinterpretation had it been more substantially challenged.

Other opportunities for engagement with the NRS might have been stimulated had the mediators prompted more questions about it. For example, only Melissa and Gladys engaged in the conversation about character positions (as brief as they were) in the NRS, however, neither mediator facilitated this aspect of story development. If the mediators had elicited more conversation about the NRS, is it possible that Gladys might have concluded that these neighbors were capable not only of exaggeration but of racism? Might she have re-examined her own role in the story and considered which tenants she had listened to and whose complaints she had believed and whose she had not (i.e.: Melissa's complaints of racism)?¹⁷³ Is there more that Melissa would have learned about Gladys' commitment to fighting (or supporting) racism? We can not know what would have emerged had there been a fully developed NRS. However, suffice it to say, it is difficult to imagine how this story could have led to further understanding, the shifting of

¹⁷³These points were raised by Caitlin in her follow up interview (#1) as she and Paula discussed the mediation together.

negative character positions, and a mutual plan for dealing with Melissa's negative racialization in the future unless the story had been told in the first place.

Narrative Analysis of the Rule Stories: RS and MDR

This section analyzes the successful elaboration of the Rules Stories in order to assist in demonstrating how their repeated emergence and interruption of the NRS resulted in the domination of the narrative of Negative Racialization. Both the Rules Story and the traditional Mediation Rules Story had fairly well-developed narrative structures. And, contributing significantly to this is the fact that they contained themes found in the grand narrative of rules. The Rules Story (RS), based on the rules violations that Melissa was accused of is the first to be explored. This is the narrative Gladys presented and to which Melissa had to respond to clear her name and protect her status as a tenant. Next, the narrative strands of the traditional Mediation Rules Story (MDR) are examined to show that while this story was not as fully elaborated upon as the RS, the semblance of a complete narrative and the power of its cultural resonance with the dominant narrative contributed to its stability.

Rules Story (RS)

Conversations related to rules were present virtually throughout the mediation. Over three hours the players co-constructed a complete story which reflected the cultural meanings of the rules-based dominant narrative. This provided narrative closure to the RS and protected its life during the course of the mediation. Adding to this, narrative interdependence was articulated and eventually transformed so that by the close of the session, both Gladys and Melissa were situated positively in their mutually agreed upon plans for the future.

The findings demonstrate the success of the Rules Story in multiple ways. First, take the case of story completeness. The success of the narration of the Rules Story—its emergence, engagement, and elaboration—is evidenced most clearly not only by its overwhelming presence and its centrality to each point of the written agreement (which is explored further below), but also by the fact that all the characteristics of a story were well established. The chronology, characters, and themes were described and elaborated upon in detail during the joint and private sessions. Gladys and Melissa laid out the chronology of the Rules Story—of the party, the police visits to the apartment, the letter, and the timeline of Melissa's behavior during the probationary period, for example. The way each described the chronology showed significant inter-narrative coherence and, therefore, closure (Cobb, 1994). For instance, both stated that the police came to the party in the late afternoon and they were in agreement on the dates of the party and the letter. Beyond the ending time of the party and the timing of the second visit by the police, Melissa and Gladys agreed on most key points in the chronology.

When there was competition between the descriptions of the chronology of events, Gladys' description was based on the police report and residents' complaints. Melissa relied heavily on her own experience in describing the events. However, Gladys' account had more cultural resonance with the grand narrative than Melissa's.

Gladys: "There were umm two calls placed to the police that evening. One was at—I called later for the police report—umm, one was at five forty and another at eleven fifteen. Melissa said that she left. The—the one at five forty—Melissa's letter to me said that the police didn't even ask her to turn down the music they just suggested that perhaps she close her windows. When we called for the report they said that the walls were shaking and she was told to turn the music down. So, that's more of an impartial third party, you know, not what I said, not what the resident nextdoor to her exaggerated. And then the other disturbance that was called in at eleven fifteen [pause]; that one involved fighting. Our police report did not indicate to us—we called once the mediation got in effect just to try to get

a third party in—they would not disclose to us who the people were who were involved in that eleven fifteen call. So, if she says she left about eleven fifteen, she may have I'm not gonna stand on ceremony and insist that it was Melissa however, all indications and complaints indicated that it was Melissa and her party all of the residents who live right next door to her they indicated it was her apartment" (Mediation transcript).

Here Gladys stated that she relied on the word of an "impartial third party" for information. She also pointed out that there were multiple complaints about the party from Melissa's neighbors. This reference to the accounts of others in support of the events she presented was likely to give weight to her story. This was her attempt to provide narrative closure; for if police were believed to be impartial and if the existence of multiple complaints added merit to her story, then her account would be less open to challenge.

While mostly relying on her own experience, there was a point at which Melissa used a similar strategy of offering an account of the chronology supported by the views of another; however, not to the same effect. She elaborated on her story by telling the mediators about an interchange she had with her nextdoor neighbor¹⁷⁴ that verified what she was saying—that she had ended the party early and she had not been around during any fight:

Melissa: "But I ask her, 'But there was people in my house?' And she was like, 'No. Your house was, there was nobody in your house, I guess. I didn't hear anything.' That's what she told me. I'm like, 'Fine!' Because I know there was nobody in my house because I was not there. And she was like, and I ask her, 'Did you see any fighting?' You know. And she's like, 'No, I saw two young ladies fighting and some kids in the car screaming. But I don't think it was you.' I'm like, 'Well, good thing it was not me because I was not there.' But then she

¹⁷⁴The nextdoor neighbor is the one whose front door is next to her front door. The nextwall neighbor (who continually banged on her wall and called the police) shared a wall with Melissa.

told me that she got into the car and she saw the cops coming and then she got into her house in case of the cops ask her, she didn't know what to say" (Mediation transcript).

By citing another, Melissa attempted to seal off a vulnerable site in her narrative from alternative interpretations (Cobb, 1988; 1994). Melissa sought to reinforce the believability of her version of events through the provision of her next door neighbor's account. This is a typical narrative strategy: "disputants contextualize unstable sites by elaborating a subplot that accounts for or explains the event, the character roles, or the theme that is at issue" (Cobb, 1994, p. 55). Sensing that some aspect of their story is not being believed, disputants often expand their interpretation (Cobb, 1994) and incorporate the words of others to strengthen their narrative. However, this elaboration was not sufficient to create narrative closure since her use of "outside" verification did not have the cultural resonance to the extent that Gladys' account had. This is because Melissa's neighbor carried no particular status in the grand narrative of rules. Gladys had offered descriptions of the type of evidence that is used in court: police testimony, police reports, and complaints to apartment managers. Therefore, their words had symbolic meaning in addition to being informational. For example, Gladys' reference to the police as "impartial third parties" called upon the value placed in this society on the concept of neutrality. This also brings with it cultural meanings imbedded in the dominant narrative—that there are people with certain jobs and holding a particular status in society (such police, judges, and mediators!) who, it is assumed, are capable of and expected to issue objective reports, render fair and reasoned decisions, and manage an unbiased process (Conley and O'Barr, 1998; Delgado and Stefancic, 2001). And some of those people provided the information that Gladys used in her account. In this way, the

grand narrative backed Gladys' chronology and not Melissa's given who they referenced to support their claims.

The impact of Gladys' and Melissa's strategies acted out a racialized hierarchy of who would be believed and why. More specifically, characterizing officers of the law as colorblind and neutral, Gladys' narrative carried with it not only cultural resonance with the master narrative but the racial power that comes with it as well. For, the master narrative is imbued with White racial privilege (Crenshaw et al, 1995). And the inclusion of references to it in a story calls upon this White privilege. In other words, the dominant narrative treats a racially stratified society as if it is racially equal. By doing so, it starts with the premise that people can be and are colorblind unless this is proven not to be true. And those whose job responsibilities include carrying out the law (such as the police) are assumed to bear this tradition with honor, again, unless proven otherwise. Therefore, the presentation of an aspect of a story as race neutral in the face of the reality of racism reflects the dominant narrative which has imbedded in it racial oppression. The two examples below demonstrate how this can occur.

As a White person, when Gladys called the police impartial she utilized an accepted understanding and reference for the police in society at large as they are represented through ideological state apparatuses (ISAs) (Althusser, 1971) or the institutions of society (Hardiman and Jackson, 1997). This is not how many people of color view the police (Asim, 2001). For example, "83 percent of blacks and 72 percent of Latinos polled in Los Angeles think that LAPD officers commonly commit acts of brutality; only 43 percent of white respondents shared that belief" (Guitierrez-Jones, 2001, p. 9). The views of people of color, (and in this case, Paula—as explained below),

are not reflected by the dominant narrative of rules which places the police in an assumed position of impartiality.¹⁷⁵ Therefore, when Gladys positively positioned the police as impartial, it resonated with the master narrative mirroring the experiences of non-Latino Whites as opposed to the experiences of people of color in this country (Asim, 2001; Guitierrez-Jones, 2001).

Paula spoke to this in a follow up conversation:

“Even trusting a police report is funny! She [Gladys] thought that because the police wrote what they wrote, her case is supported and the ‘facts’ that they describe are true. As if the police was not biased against people of color here!”

Paula stated that she had considered whether to ask Gladys about that assumption, deciding not to do so since it was early on in the mediation and Gladys would have taken it as a challenge to her story. In other words, Paula anticipated that without such a challenge, Gladys considered her story safe from alternative interpretations.

This is a sign of White privilege which is imbedded in the assumptions behind the dominant narrative and in the parts of Gladys’ story which resonated with it. Gladys did not seem to consider how Melissa or other tenants of color might view the police. And Gladys did not have to since the dominant narrative was likely to resonate with her own. This was the support that White privilege gave to her as she narrated. Yet, both Melissa and Paula demonstrated that they had considered how Whites might view the same situation. As a strategy to help them determine what to discuss and with whom, they

¹⁷⁵ I do recognize that this discussion could include a rich analysis of the complexities of class, age, gender, and sexual orientation, among other identity factors. For example, there are many poor Whites who have experienced more intense police surveillance than middle and upper class Whites. However, for the sake of maintaining a focus on negative racialization, I concentrate on the racialized divide that constitutes differences in treatment by police between people of color and non-Latino Whites.

thought about how raising the topic of negative racialization with the Whites in the mediation would impact the discourse. This resulted in Melissa self-censoring the NRS and, in this instance, of Paula self-censoring her questions to Gladys about the party. It appears that both Melissa and Paula were aware of the dominant narrative of rules and how Gladys would become defensive in the light of any challenge to the parts of her story which resonated with it. Gladys not only did not seem to consider whether everyone would agree with her that the police were impartial, but she was not required to face questions on this point.

White privilege was afforded to Gladys in several ways: by the very fact that she could assume that her view of authority would go unquestioned, that those in authority were likely not to have considered racism as a motivation for the complaints, and that she was not required to face an alternative story (the NRS) challenging the narrative closure and coherence of her own. This White privilege is based on what Flagg (1997) calls the "transparency phenomenon:" the "tendency for whiteness to vanish from whites' self-perception" (p. 220). Gladys did not appear to factor into the situation the fact that she was White and how that might have influenced what and whom she believed to be impartial. And yet, her reliance on a police report as a neutral description of the facts likely was influenced by her being White; and not considering this had serious consequences on Melissa's life. Flagg (1997) notes that "the ways in which transparency might infect white decision-making are many and varied" and, due to its nature, most often go unexamined by Whites (p. 222).

There were consequences due to the fact that Gladys' narration, (unencumbered due to the transparency of whiteness), had cultural resonance and Melissa's narration, for

the most part, did not. Because, as mentioned previously, a story in mediation can do more than merely reflect a dominant narrative, it can reconstitute unequal power relations which are imbedded within the dominant narrative.

“Any story that is told is ‘nested’ in a hierarchical structure of meaning that provides context for sharing the construction of a story. The meaning of a conflict narrative is thus connected to and constitutive of a meaning system.

Even though only portions of the system¹⁷⁶ are constructed in the mediation session, the narrative web is both reflected and constructed by the ‘told’ story. The construction of a portion of the narrative web functions to materialize and consolidate the meaning of the entire web, whether it is ‘visible’ or not” (Cobb, 1994, p. 53).

Therefore, the themes given meaning in the Rules Story were both a reflection the grand narrative of rules and also served to reinforce it. The invisibility of racism, (a part of the grand narrative), was reconstituted in the mediation when the discussion of rules violations omitted the examination of false accusations based on racism and this served to reinforce the unequal racial relations between Gladys, Melissa, and her neighbors. As we continue to look at how the Rules Story built narrative coherence and narrative closure the reconstitution of the grand narrative and its impact on the participants becomes more evident. This is explored in the extensive examination below of both the plot and the narrative interdependence in this story.

With regards to the plot, competing meanings were attributed to events by Gladys and Melissa. For example, Melissa’s descriptions of the night of the party was not validated by Gladys. The manager did not consider the possibility that the neighbors might have falsely accused Melissa based on racism. The tenant’s account of this was not

¹⁷⁶ Here Cobb’s (1994) reference to a larger meaning system is used in much the same way as I am using the concept of a dominant narrative.

pursued further by either the mediators or Gladys. Similarly, the fact that the police might not be an impartial source of information was not explored. Gladys indirectly challenged Melissa's statement that she was not home at the time of the fight by telling the mediators that she "will not stand on ceremony" to insist that Melissa was there. Both participants maintained their interpretation of events; Gladys held Melissa accountable based on the police report and Melissa blamed the neighbors for getting her into trouble when she had done nothing wrong. Yet, despite offering interpretations with opposing meanings, both participants conversed about the same theme: rules violations (RS).

By the close of the mediation, the organization of the plot around the theme of rules violations had not shifted. However, the narrative interdependence had shifted somewhat. While Gladys' continued to question whether the rules had been violated and she did recognize that there may have been inaccuracies in the accusations levied against Melissa. Yet, she proceeded to seek an agreement in which Melissa would articulate her willingness to uphold Meadowlark's rules. This demonstrated not only her continued focus on the rules but that she maintained some doubt as to the veracity of Melissa's claim to having followed all the rules at her party in the first place. Therefore, Gladys sought reassurance that that rules violations would not happen (again?).

Gladys' comments in the final joint session revealed the extent of the shift in narrative interdependence as she began to frame Melissa as not entirely culpable and also as a responsible tenant who she could plan to trust in the future. In addition, with regards to her own narrative position, Gladys acknowledged that via her letter, she had been responsible for hurting Melissa.

Gladys: "Melissa, what I would like to say is that I am very impressed with how you reacted to my letter [by requesting mediation] and that took it—you seem to

be a to be an extremely conscientious person. And that you want to do what's right. And that you live your life that way. So, that it—my letter hurt you. And all I had to go on was the number of complaints and also a vague police report. And in retrospect, in getting to know you, I think that I wouldn't have sent you that letter quite that harshly with your very first offense. So, I want you to know that. That you don't have to be real worried about me or umm, I'm not going to hold this one thing against you forever. Umm, and I am going to listen to you that you—that you think that there may have been some exaggerations and some inconsistencies or inaccuracies in the reporting of the incident. And I believe you that that—that that—I think there's a possibility that that coulda happened. I don't want you to think that I have any prejudgement based upon what happened between you and me that I think that you're probably the one at fault. I don't think that. [Small pause] So, we're gonna finish this one and we'll start over with a brand new one. But your slate is clean as far as I'm concerned" (Mediation transcript).¹⁷⁷

Gladys' comments demonstrate a shift in understanding, a narrative which had undergone transformation. In this way, the meanings made of the plot were slightly altered as the narrative interdependence between the character roles shifted. Gladys' narration of the Rules Story had begun with Melissa being held fully responsible for the conflict, as the one who had broken Meadowlark's policies. And she had started by framing herself as a responsive and responsible manager; willing to go to mediation with Melissa even though it was not part of her job responsibilities. By the end, Gladys pointed out how they both could be seen in a somewhat different light than at the beginning: Gladys had hurt Melissa and Melissa may not have actually broken all the rules she was accused of breaking.

As Cobb (1994) points out, transformation in narrative interdependence changes how the disputants make meaning of their relationship. It opens up the possibility for

¹⁷⁷Note here that the "neutral and impartial" police were now framed as having issued a "vague police report." Gladys did not mark their efforts as irrelevant at this point but did acknowledge that she may have not received all the relevant information upon which to base a decision.

positive future relations since those who had been framed as the negative "other" are no longer delegitimized. Without the constraints of negative versus positive positioning, the participants can reinterpret the past and co-construct a narrative of the future without the negative interdependence. This occurred when Gladys articulated the transformation in both Melissa and her roles in the Rules Story.

The shift in the narrative interdependence carried different weight in the lives of Melissa and Gladys because they had different relationships to this narrative. We must remember that Gladys was the originator of this discourse and that Melissa's participation in the Rule Story was as a respondent. Gladys had been willing to place Melissa in a negative light as she engaged in the Rules Story and Melissa had felt the need to alter how Gladys had negatively positioned her (both in the letter and in the mediation) since she desired not to be seen in that light by someone who had control over her housing. Her position with regards to engaging with the Rules Story, then, cannot be viewed as starting from a place of equality. Therefore, we are not only looking at how they both dealt with the narrative interdependence but we must remember that they entered the discourse on rules from unequal positions.

Because Melissa needed Gladys to see her in a legitimate social position (Cobb, 1994) in order to remain in her apartment, she had a greater investment in shifting the narrative interdependence than Gladys had. Melissa also desired Gladys' assistance in legitimizing her in the eyes of her neighbors. Therefore, when Melissa spoke in response to the Rules Story, she continually framed herself as a responsible and caring neighbor, hoping that Gladys would come to see her as she saw herself. Unlike Gladys, however,

she chose only to negatively position the neighbors and not the other participant. The reasoning for this is tied to her unequal position in relation to Gladys.

As she responded in the Rules Story, Melissa framed her neighbors as the source of lies—implying they were driven by racism—and of relational insensitivity. Melissa did not overtly position Gladys in a negative light but merely insinuated this when she spoke of fearing the administration's concerns about being accused of racism at the same time she asserted her own concerns about it. This lack of overt negative positioning of Gladys likely occurred because Melissa valued Gladys seeing her as a rules-abiding tenant and putting Gladys on the defensive would not promote the outcome she sought.

Why might Melissa have been more concerned about being seen as rule-abiding than in getting Gladys to discuss racism at the complex? As previously stated, Melissa seemed to have understood the power of the master narrative and, therefore, she must have realized that without proof Gladys would be unlikely to entertain her concerns about racism. And Melissa anticipated accurately the types of responses she did receive once the NRS was introduced to the manager: Gladys did not agree to participate in the mediation between Melissa and her nextwall neighbor, she did not agree to set up workshops to teach people about being good neighbors in a multicultural community, and she did not feel comfortable talking with Melissa about racism. Having anticipated such outcomes and prioritized housing security, she chose not to negatively position Gladys in her narration.

Melissa's awareness of the power of the grand narrative and the importance of cultural resonance in order for a story to be effective left her with choices that required compromising her true desires. She made it clear in her follow up interviews that she had

wanted more help from the manager of Meadowlark in dealing with her neighbors' racism and yet, she discerned that to talk about that would have jeopardized getting what else she needed: housing without fear of eviction. The results of her decisions not to raise the NRS and not to negatively position Gladys can be categorized in two distinct ways. First, as explored above, Gladys received White privilege in the narrative process by not having to deal with the discussion of the NRS as it overlapped with the topic of rules violations. Second, she did not have to struggle against negative positioning by Melissa.

Yet, despite any substantial shift in Gladys's position, there was transformation in the narrative interdependence in the Rules Story. By the end of the mediation, Melissa had been re-positioned in a favorable light in the co-constructed Rules narrative about the future. As they envisioned life after the mediation, both participants were seen as capable of following the rules and staying in communication about them. For example, the mediation agreement stipulated that Melissa would ensure that the rules about noise were followed and that Gladys would check with Melissa before taking action if anyone complained about her. This implied that Gladys now saw Melissa as capable of following rules and therefore, as behaving as a good tenant. In addition, the agreement also implied that even if Melissa acted in this manner, they both recognized that she could be unfairly accused of not doing so. Gladys agreed that if Melissa was accused of rules violations, she would contact her to hear her perspective before making any decision—thereby acknowledging the possibility that she would believe Melissa over another tenant.

By the end of the mediation, Gladys had acknowledged the possibility that the neighbors could be negatively positioned. And Melissa's character position had been legitimized enough so that Gladys could conceive of trusting her word over that of a non-

Latino White neighbor. Is this a result of liking Melissa as she got to know her better? Trusting her more because Gladys saw in her earnestness and sincerity? Was this a reward for demonstrating her willingness to go to great lengths to prove that she would follow the rules? How did Melissa's exceptional efforts to show Gladys her commitment to follow the rules impact this shift? While answers to these questions remain unknown, it is clear that the transformation of narrative interdependence was a significant event in the mediation, albeit in different ways, for both participants. In fact, in her first follow up interview Melissa pointed out that the movement in her role from a negative to positive position in Gladys' story was a critical incident, a turning point for her in both the mediation and in her relationship with Gladys. She considered this a success of the mediation. And for Gladys, she stated that this shift had led to a friendship and connection they had not had before.

It is interesting to see that Melissa considered herself on equal footing once Gladys saw her as someone who would follow the rules (Melissa's follow up interview #1). This speaks to the power of the Rules Story, something she was required to deal with and over which Gladys maintained authority in Melissa's life. Having the apartment manager who controlled her access to housing see her in a positive light had been a goal for Melissa and its achievement gave her a sense of empowerment and security in her relationship with Gladys.

Therefore, with the transformation of Gladys' and Melissa's roles the Rules Story was complete providing both participants with some measure of what they were looking for in the mediation. The Rules Story benefitted Gladys by giving her White privilege through the process (as mentioned above) and Melissa's reassurance that she would

follow all of Meadowlark's policies. Melissa did not have an important and related aspect of the Rules Story discussed—the NRS—and did not have her name entirely cleared. Yet, despite these inequalities, this story evolved did provide her with some material benefits. Gladys said she viewed Melissa as having a “clean” record and she had achieved a friendly connection with the manager from whom she could get answers to questions she had previously been wary to discuss (i.e.: parking, etc.).¹⁷⁸ The success of the Rules Story, then, to some extent served both participants according to their own criteria.

Traditional Mediation Rules Story (MDR)

The traditional Mediation Rules Story (MDR) was another narrative based on rules which powerfully influenced the mediation discourse. It was not a narrative that came from the participants but rather emerged from the service providers. And although it was not a story expounded upon to any great extent, all the elements of a story were developed. The mediators and the coordinator periodically discussed aspects of the story throughout the intervention and the key elements of the narrative are highlighted below.

Character Roles

The characters in the MDR were the players in the mediation as well as the nextwall neighbor who was to be invited to a future mediation session with Melissa. The conversations about the MDR revolved around how the characters should be treated and how they were responding to or carrying out the traditional rules of mediation. For example, the following provides a summary of the topics covered in these discussions:

Participants should be treated in symmetrical fashion by the mediators: given the same guidelines to follow, provided with the same amount of airtime, shown that

¹⁷⁸ Melissa had stated this at the close of the mediation.

there was an interest in both of their narratives, connected with similarly both verbally and non-verbally. The guidelines of confidentiality, participant control over decisions, and no interruptions in the process were to be upheld.

The mediators shouldered the responsibility of carrying out these functions and the characterization of their roles in the MDR story was framed in response to this; for example, speaking positively about someone who behaved in this fashion. During the pre-mediation preparation caucus the service providers discussed the MDR at some length and Robert spoke to the mediators about making sure both participants felt heard and understood: “And jus—just to review: getting the stories. Being clear that you understand—both sides, both stories” (Mediation transcript). And Paula and Caitlin spoke of how, as mediators, they should demonstrate verbal and non-verbal symmetry:

Paula: “So, I guess we talked about how we were going to sit.”

Caitlin: “Weren’t we also going to switch chairs?”

Paula: “Umm, why not? I think it would be a good idea.”

Caitlin: “I think it would be a good idea, too. So, I’ll be prepared to do that.”¹⁷⁹

Paula: “And umm, you’ll—you do the introduction in the individual meeting. You do the introduction with one person and I can do the introduction with the other person.”

Caitlin: “Uh hmm” (Mediation transcript).

The mediators and coordinator also spoke about these character roles when the coordinator thought that they were not being properly carried out. Robert, for example, was concerned that the mediators were not providing Gladys and Melissa with equal time

¹⁷⁹ This is a reference to an earlier decision that the mediators made to switch seats part way through the mediation in order to be physically closer to each participant for half of the mediation.

to speak and he communicated this as a violation of the MDR; thereby negatively positioning the mediators.

Robert: "I also want to—just want you to be aware of airtime. How much you've given each one in private caucuses. Have you been aware of how much time Melissa's gotten versus Gladys? And if you bring Melissa back again is that more time?" (Mediation transcript).

The message here is that if the mediators continued with their plans, they would exacerbate the fact that they had not be living up to their role in the MDR story. What followed was a narrative interdependence that compared the mediators' behavior at that time to a standard of behavior typically expected of mediators; in effect, they were negatively positioned against the positive position of theoretical mediators.

The mediators were challenged by Robert to consider what their behavior was supposed to look like given what their roles were.¹⁸⁰ This presupposed that the three of them shared the same values and expectations for mediator behavior and roles. Robert invoked the concepts present in the larger narrative of the mediation field that defines the role of mediator as one who manages a symmetrical process, responsible for procedural equality (Rouhana and Korper, 1996; Welsh, 2001). This, in turn, reflects the grand narrative of rules which fundamentally relies on procedural fairness. Therefore, while the specifics of how this is manifested in the mediation field (i.e.: turn-taking, equal airtime, etc.) may differ from the way procedural fairness plays out in other settings, the MDR was nested within the system of meanings of the grand narrative (Cobb, 1994). However, these particular ways of facilitating a procedurally fair process have been codified in

¹⁸⁰ Caitlin and Paula responded to this challenge and the shift in narrative interdependence which resulted is explained later in this section.

mediation practice;¹⁸¹ and Robert was comparing the mediators' behavior to these standards. And in this way, the MDR reflected both the grand narrative of rules and the mediation rules typically and traditionally employed in this country.

Themes

The themes of the MDR story were that mediators' behavior should reflect:

1. neutrality by demonstrating a lack of bias in carrying out the procedures;
2. a lack of investment in the content of what is discussed and agreed upon by the participants. Efficiency of time and reaching an agreement are valued.

These themes appeared in most of the caucuses. For example, prior to the first joint session, Robert went over some of the things he wanted the mediators to cover with the participants in the opening and this included that: "they [should] know it going in...that certainly you [the mediators] hope that you [the mediators and the participants] can come to resolution today" (Mediation transcript). The later discussion about balancing the amount of time each participant was given implied that asymmetry reflected an inappropriate (read biased) procedure. These conversations about the themes of the MDR were another avenue through which the values of the master narrative appeared. Therefore, the MDR had cultural resonance with the master narrative in more than one feature of the story; found in both the character and plot development.

More than once Paula challenged the value placed on symmetry and therefore posed a challenge to the meaning of a theme in the MDR narrative. For example, she explained the need to give the participants unequal airtime because Melissa was speaking in her second language and the mediators needed more time to clarify what she is saying.

¹⁸¹This is expanded upon in more depth in Chapter Two.

Paula's criticism of symmetry provided, in effect, an alternative interpretation of the meaning of symmetrical interventions. However, this was not a vulnerable site in the MDR story and, therefore, the challenge was soon disposed of and the narrative closure and coherence of the MDR prevailed. For, the themes of the MDR had complete cultural resonance with both the larger narrative in the mediation field and the grand narrative with their emphasis on symmetry as the hallmark of procedural fairness (Welsh, 2001). In addition, it reflected the grand narrative's blindness to racism, and in this example, also to linguisticism; it's colorblind and languageblind application of symmetry in the presence of differing life experiences based on negative racialization (Crenshaw et al, 1995). The grand narrative encourages a lack of attention to actual conditions faced by people and instead, promotes the value of applying the same procedures to all. This, however, does not respond to what each party's needs to make it possible for her to fully participate in the discourse of a mediation (Cobb and Rifkin, 1991).

For example, Melissa and Gladys had different styles of communicating, were unequally positioned at the start of the mediation, and had very different stakes in its outcome; to say nothing of the fact that one could participate in her first language while the other was being asked to listen and communicate in her second language. In such circumstances, how can offering the same amount of airtime be "fair?" According to the grand narrative, the use of the same procedural standards for all provides for procedural fairness. And answering this question from the standpoint of substantive fairness challenges the essence of those values cherished in the mediation field. It requires attention to the participation needs (Cobb and Rifkin, 1991; Susskind and Cruikshank, 1987; Dukes, 1993; Rifkin and Cobb, 1991) instead of symmetry.

The provision of procedural fairness, as valued by the grand narrative and manifested in the typical practices of the mediation field, most often results in providing both parties with what the one with more power needs and this inevitably reinforces the imbalance (Rouhana and Korper, 1996). For example, to provide Melissa with the same amount of airtime Gladys had utilized meant using the experience of the person in the more powerful position—inside the mediation and outside of it—as the litmus test for what was fair for both participants. Again, the experience of a White person set the standard for a procedure rather than the person of color (Matsuda, 1995). While this was recognized as problematic by Paula and Caitlin, they were not successful in altering the pattern to a large extent. For despite the fact that they did meet with Melissa for a second private session which they did not offer Gladys, it was brief and did not cover the topics (the NRS) which they had considered crucial to discuss with her. Instead, the narrative closure and coherence of the MDR successfully shut out their challenge to the theme of the MDR: symmetry.

Chronology

The chronology of the MDR was periodically briefly spelled out during the intervention as the mediators and coordinator conversed about how to manage the movement and timing of the sessions. These were key points in the chronology:

- ◆ Speakers (whether a mediator or a participant) should take turns
- ◆ the mediation should reflect turn-taking on the structural level (i.e.: joint session, mediators' caucus, private session with one participant, mediators' caucus, private session with other participant, mediators' caucus, etc.)
- ◆ the mediation should end in a timely fashion.

The narration of some of this chronology was given by the mediators in their opening remarks.

Paula: "I'm gonna ask you when you're together here not to interrupt each other and just talk to us; and each of you is gonna have ample opportunity to umm, speak and tell us what's going on; so just please try not to do that¹⁸². After I finish introducing this part to you we're going to ask each of you to tell us what's happening.

And then we are also going to have individual meetings with each of you. And we're gonna be switching back and forth" (Mediation transcript).

In this opening statement, Paula spoke about the expectations for interaction and storytelling based on symmetrical turn-taking. This chronology was reinforced on a number of occasions during the mediation. However, despite the strong presence of the MDR when the mediation process was discussed, there were several times when the process was framed alternatively. An example of this is when Caitlin and Paula argued against Robert's idea of drawing the mediation towards resolution and closure. In this instance, they were stating the need to meet for an additional session with Melissa.¹⁸³ Yet, the way this interaction ended was indicative of the success of MDR story in the mediation. While the mediators did meet with Melissa for a second private session (one time more than they did with Gladys), they rushed through Melissa's private session in response to Robert's reminder of the MDR. He pressured them not to add to the imbalance of airtime and to bring the mediation to a close since he felt it had been taking a long time.

¹⁸²This is a reference to interrupting.

¹⁸³They had hoped to meet with Gladys as well, but did not discuss that with Robert at that point.

The Completeness of the MDR Story

Overall, the discourse on traditional Mediation Rules contained all the components of a complete story. It achieved narrative coherence, closure, and, to some extent, interdependence as well. Narrative interdependence was achieved after the positive positions of the mediators were briefly altered and then repositioned as positive. An example of this is when Robert commented that, in effect, Paula was not living up to the themes of the dominant narrative as reflected in the themes of the MDR: she was violating the concepts of neutrality and symmetry by offering Melissa more time.

Robert: "I—I really remember that Paula seems to be identifying clearly with Melissa as a Latina. I wondered if it was some bias or [pause] over-partiality [said with a questioning tone] perhaps that she was voicing" (Follow up interview #1).

It is interesting that while Paula was the one to state Melissa's need, Caitlin had agreed with her that an additional private session was needed. And yet, Robert found fault with Paula's comments, only holding her accountable for being biased. Was this because he saw her as sharing Melissa's Latina identity and he assumed bias? Did he see Caitlin's efforts in support of balancing airtime (which she did mention) as outweighing her "biased" interest in another session with Melissa?¹⁸⁴ This is likely the case since in his follow up interview (#1), Robert stated that he had felt that Caitlin had understood the need to balance the time and that Paula did not value this. In any event, during the mediation Robert's phrasing negatively positioned both mediators and once they

¹⁸⁴ Caitlin's response to Robert's questions about an imbalance of airtime was: "I think what's most—I agree with Paula—what's—I think—what's most needed now is to have another conversation with Melissa. A short one and we can say that. We'll set the—and that what you're trying to tell us is we need to be careful about how we're balancing our time with both of them. And so we can be really clear with Melissa about that" (Mediation transcript).

expressed willingness to act according to the themes in the MDR, narrative interdependence was transformed. When they agreed to move in the direction of symmetrical airtime and building a resolution they were again positively positioned as in sync with the MDR; even if Paula's and some of Caitlin's expressed beliefs were not.¹⁸⁵

The traditional Mediation Rules Story had cultural resonance with the Rules Stories on the meta and macro level. On the meta level, within the mediation field, the values of the MDR are prevalent (Conley and O'Barr, 1998; Shultz, forthcoming) with the commitment to using colorblind procedures and applying them symmetrically evident in training, manuals of instruction, and scholarly writing (see Chapter Three). On the societal level, the MDR is reflective of the dominant narrative as expectations of neutrality and equality in the implementation of procedures are the defining factors of a fair process. With such cultural resonance, the MDR was secured with narrative closure and protected from alterative interpretations.

This closure was evident during Paula's failed attempt to introduce the NRS as the reason why an imbalance of airtime was acceptable. What is interesting about this challenge to the MDR is that all three of the service providers were trained to question the legitimacy of the MDR; to respond to the participants' storytelling needs as opposed to function only by attending to symmetry and neutrality. Both Paula and Caitlin state that they were consciously attempting to do this and were frustrated by what they

¹⁸⁵ It is interesting to note the similarity of this with what occurred with Melissa. She also had been positively positioned in the narrative (the RS) once she agreed to follow the rules.

experienced as Robert's pressure to return to traditional practices and the MDR.¹⁸⁶ Yet, even in the light of these purposeful efforts to struggle against the MDR, the grand narrative which permeated it carried such weight that it was successfully told and acted upon by the players.

How the Rules Stories Dominated the Negative Racialization Story

Caitlin: "That whole conversation [the NRS]—every time was raised had to do with legalistic issues. You know, had to do with the law, had to do with evidence and policies. For both of them" (Follow up interview #1).

This is a powerful articulation of the penetration of the grand narrative of rules and of the domination by the Rules Stories of the Story of Negative Racialization. There were multiple reasons why the Rules Stories were more frequently and easily engaged with and built upon by the players and why they were introduced when the NRS was raised. The examination of narrative coherence, narrative closure, and narrative interdependence with regards to the NRS and the Rules Stories demonstrated how the former story was severely hampered in its development while the Rules Stories were well constructed and elaborated upon by all. The weak narrative structure of the NRS and the repeated evasion by the substantially stronger Rules Stories fostered the demise of the NRS. But, as has been argued above, the marginalization of the NRS by the Rules Stories is due to more than simple narrative intrusion. The role that the cultural values present in

¹⁸⁶ Caitlin and Paula saw the gender dynamics between Robert, as the male coordinator, and themselves, as female mediators as the definitive factor in why they gave into Robert's pressure and its expectations. I do support their analysis, however, I also believe that it is likely that the power of the MDR and the dominant narrative may influenced their decisions as well. This conclusion is based on the fact that they, too, initiated engagement with the MDR during the mediation at different points; even in Robert's absence.

the grand narrative played as well as the narrative strategies the players utilized were significant factors as well. And this section explores these factors and their meanings in terms of racial oppression.

Presented first is a narrative analysis of the marginalization of the NRS. Narrative marginalization is a function of two things: the degree to which people are self-defining in discourse (Pallai, 1991 in Cobb, 1994) and the degree to which others elaborate upon those self-definitions (Belenky et al, 1986 in Cobb, 1994). Self-definition involves both process and content. For example, being able to narrate a story in the style one chooses and to provide the information one wishes to share is procedural access to self-define. In the content of a story, self-definition can include being able to present oneself as legitimate and positively positioned in the narrative. However, neither of these aspects of self-definition ensures protection from narrative marginalization (Belenky et al, 1986 in Cobb, 1994). The elaboration on one's story by others can help prevent its marginalization since vulnerable sites are being protected not only by the story's originator, but by others as well; and this, in turn, reinforces narrative closure. This demonstrates why telling one's own story is not enough to prevent it from marginalization by others.

The implication, then, is that unless a story has been elaborated upon it can be effectively marginalized. The findings of this study bear that out: they demonstrate that having not been elaborated upon, the NRS was easily marginalized. Without being either fully narrated or elaborated upon, it made no impact on the future story and thus lacked narrative effectiveness (Shailor, 1992). Shailor (1992) states that stories have

effectiveness when they are elaborated upon, have pragmatic coherence, and have subsequent influence.¹⁸⁷ And lacking effectiveness, the NRS was marginalized.

However, being a marginalized and ineffectual story does not fully account for the fact that the NRS was dominated. For example, the fact it was marginalized and ineffectual can be determined solely by examining the NRS segments and the agreement. But to understand the domination of the NRS, its relationship to the Rules Stories had to be explored. The findings detail the numerous ways in which the Rules Stories invaded, permeated, and caused diversion away from the Story of Negative Racialization. They demonstrate that the NRS was effectively silenced by the repeated introduction of and engagement with the Rules Stories at the direct expense of the narration of the NRS; at times purposefully used to accomplish this.

The selection of which narratives are facilitated and whose interests they represent are a result of the politics of the facilitation process as well as of the larger social context (Cobb, 1994; Rifkin, Millen, and Cobb, 1991). Therefore, narrative domination, like narrative effectiveness, is contingent upon both the narrative dynamics of the discursive process as well as the attention (or lack thereof) paid to racial oppression issues, for example. Looking first at the NRS and the Rules Stories from a narrative perspective, we can see that the latter had significantly more narrative coherence. This provides one part of the explanation for the domination of the NRS since

¹⁸⁷ By pragmatic coherence, Shailor (1992) is referring to "the extent to which others demonstrate an understanding of the story by participating within it" (pp. 124–5). While I do not agree with Shailor that engaging with a narrative necessarily implies understanding it, I agree that having elements present results in the pragmatic coherence of a story.

“1) less coherent stories may be dominated or marginalized by the more coherent narrative; and 2) less coherent stories may not provide a satisfactory base for the construction of agreements. If there is disparity between narratives in terms of coherence and if the less coherent narrative is not adopted or elaborated by others (being instead colonized by the dominant, more coherent narrative), then the agreement will not be reflective of both the disputants’ stories” (Cobb, 1994, p. 59).

And this clearly occurred as the narrative analyses of the Rules Stories and the NRS have shown. For, as Cobb (1994) points out, if the story with less coherence is not built upon by others then it will not have what Shailor (1992) calls subsequent influence. Without engagement and elaboration on the NRS, it could not form the basis for the agreement. However, the lack or presence of coherence in these stories was not random. As was previously stated, narrative coherence was fundamentally connected to the cultural resonance with the grand narrative of rules. And without that, the NRS became an underdeveloped story dominated by the Rules Stories.

The narrative strategies employed by the players enacted this domination; despite some players’ concerted efforts and intentions to the contrary. A close look at the reactions and interventions displayed by the players surfaced a number of strategies which fostered the marginalization of the NRS and its domination by the Rules Stories.¹⁸⁸ The most common pattern used by all the players was ignoring and avoiding the NRS. These strategies manifested in being silent, deracializing the discourse, and diverting the conversation to Rules Stories. Silence and deracialization effectively undermined the NRS and left it vulnerable to the domination by the Rules Stories which were turned to for development instead.

¹⁸⁸ See Appendix K for a list of these strategies.

The use of silence in a discussion on negative racialization and the deracialization of a narrative (especially when it focuses on rules) reflects the relationship between the grand narrative and racism. And, as previously mentioned, the grand narrative teaches that racism is an unusual circumstance, absent unless sufficient proof is produced (Delgado and Stefancic, 2001). Therefore, silence in the face of a complaint about racism likely results in the need to engage no further since a complaint without proof is not seen as valid. Instead, the grand narrative values rational and aracial (read colorblind) descriptions of conflicts and their resolutions; and this is best manifested by concentrating on abstract standards (Ross, 1995). The attention to abstract standards (rules) is seen as ensuring that conflicts are prevented and resolved without bias. And the belief in colorblind neutrality has particular currency in the mediation field.

In addition, seeing the individual as the focus of problem-solving has a central position in the master narrative (Baker et al, 2000) and this, too, is reflected in the core values of the mediation field as practitioners are taught to discover and respond to the interests of the individual participants (Fisher and Ury, 1981). Therefore, the narrative strategies of deracializing a narrative and refocusing it onto the topic of colorblind rules, abstract principles, and individual needs have cultural resonance not only with the master narrative in society at large but with the dominant narrative present in the mediation field.¹⁸⁹

¹⁸⁹ And these are the themes routinely discussed when attention is diverted away from the NRS. An example of this was in NRS segments #9–11.5 when immediately following the introduction of the NRS the conversation turned to an explanation of Meadowlark's regulations for housing assignments and a discussion of what Melissa needed to make her happy staying in her apartment.

The relationship between silence and White privilege is also a component of the grand narrative (Wildman and Davis, 1995). By not "seeing" racism and not engaging in its discourse Whites are afforded the freedom from having to face the realities of having a privilege that others do not have. And this privilege is most often transparent to Whites given its invisibility in the grand narrative and both the relative lack of penalty and the benefits to Whites for not seeing it. In this way, a high investment in maintaining silence with regards to racism is promulgated by the master narrative (Ross, 1995).

The proclivity, then, to respond to the NRS with these strategies was tied to factors such as: the familiar silence of White privilege, the ease with which the Rules Stories were elaborated upon given their cultural resonance, and the discomfort expressed by some and anticipated by others when negative racialization was discussed. However, these forces did not take place in a vacuum. The mediators and coordinator had received little training in either narrative theory or the techniques which could have helped them identify that these racialized narrative dynamics were occurring. Therefore, they were not well-prepared by the program for the competing conditions present at the mediation: a desire to help the participants discuss what they each wanted and the pressures to ignore and divert the conversation not only away from the NRS but towards the Rules Stories. In addition, the structure of the mediation program was not sufficiently designed to assist the service providers with these challenges. After all, there were many aspects of the traditional Mediation Rules Story which were imbedded in the mediation format, this, despite the rhetoric and experimentation with techniques in multipartiality—in the hopes of offering each participant the narrative access they needed. For example, the format still had elements based on symmetry such as the use of turntaking in

storytelling. Therefore, while the service providers had their own social consciousness and their training had raised some additional awareness about racial oppression, they were sent into the mediation without a structure and specific tools for resisting the pull of the grand narrative.¹⁹⁰

The mediators and coordinator (as well as the participants) were left to their own devices without thorough training by the program in how to strategically intervene in a narrative process in order to disrupt the perpetuation of the racist grand narrative of rules. It was in these circumstances that only Paula and Melissa initiated and engaged in the discussion of the NRS in the presence of the participants.¹⁹¹ The choices Robert, Caitlin, and Gladys made not to narrate or facilitate the NRS but to respond with silence and deracialized rules-based narratives fostered its domination. And Paula and Melissa, too, routinely used these narrative strategies or succumbed to them after they had raised the NRS, adding support to the demise of the NRS. The totality of these narrative strategies emanating from both inside and outside of the mediation led to the domination of the Story of Negative Racialization.

Conclusion

The narrative domination of the NRS by the Rules Stories had an impact on both the process and the outcome of the mediation. There were moments of success in the

¹⁹⁰ See Appendix J for a detailed description of the philosophy, structure, and training of this mediation program.

¹⁹¹ During two mediator caucuses Caitlin did briefly discuss the NRS and showed indirect support for its value as a story to be pursued. While this is important to note, since it did not occur in front of the participants, they were not able to use these as opportunities to narrate the NRS.

struggle to prevent this demise of the NRS, and yet, the Latina players were burdened with this struggle while the Whites and Anglophones associated with the case were privileged by the results. And therefore, despite those desires and intentions to the contrary, the narrative process in the mediation reconstituted this typical pattern for dealing with racism (Haney Lopez, 1996; Wildman and Davis, 1995). The targeted individuals were left with the burden of articulating the presence of racism and those with racial privilege had it reinforced by the majority of the narrative strategies used by all the players.

White privilege is imbedded in the grand narrative and therefore, in each instance where it provided cultural resonance to a story, it reinforced the fact that the Whites involved with this case did not have to face the realities of Melissa's negative racialization. Throughout much of the session Gladys and Caitlin did not have to struggle with having a narrative which resonated with their experiences eclipsed. Caitlin did not have to worry that when she chose to support the facilitation of the NRS that she would be seen as being biased, as Paula had been. And Gladys could feel secure that her narration about who to trust (the police) and about the colorblind application of the law and the housing regulations would be treated as legitimate. She could be confident that it would be given the facilitation it needed to contribute to a fully effective story. In addition, the White neighbors did not have to face repercussions of any kind regarding their negative racialization of Melissa.

Robert did not benefit from White privilege and yet his lack of attention to Melissa's negative racialization raises a few questions worth considering. Was his focus on the MDR solely a reflection of his indoctrination in the grand narrative? How might

the insidiousness of White privilege have affected his perspective on this matter? For example, part of the legacy of racism in this country is a Black/White binary (Delgado and Stefancic, 2001; Martinez, 2000) which operates through the grand narrative as well.¹⁹² It does not provide for the differential ways in which various groups have been and are negatively racialized and it “dictates that nonblack minority groups must compare their treatment to that of African Americans to gain redress” (Delgado and Stefancic, 2001, p. 67). Did this aspect of the master narrative influence Robert in anyway to not see Melissa’s negative racialization as truly real?¹⁹³

Anglophone privilege was also present during the process. Those players who were able to speak in their first language could narrate, question, and listen without translating and with fuller access to the vocabulary in which they were first socialized to think about and discuss their world. Would the discourse in the mediation have been different had it been held in Spanish or bilingually? Did the sole use of English prevent “access to certain questions and answers” (Moraes, 1996, p. 109)? Given that the first language of the Latina players was Spanish how might the discussions on the NRS have gone differently if they had been held in Spanish? Both referred to being Latina as their ethnicity and yet they acknowledged that it was negatively racialized on the mainland in the U.S. How would a conversation about Melissa’s isolation and being targeted as a Latina have looked if this mediation was held in Spanish? And what impact would that

¹⁹²See Chapter Two for a further discussion of this.

¹⁹³This same question can be posed for other players as well.

have had on the narration by the Anglophones? Would the grand narrative of rules, constructed in English on the mainland, have carried the same weight?

In the face of a narrative process which continuously marginalized the NRS, Paula, and at times, Melissa took up the challenge of attempting to narrate and facilitate this story. What accounts for their efforts to intervene against the multiple forces working to dominate the NRS and in the light of the racial and linguistic privileges others were receiving? They utilized strategies of resistance such as raising it, reintroducing the NRS after it had been ignored, and challenging efforts to change the subject. And this seemed based in their awareness that such tactics were needed to make visible Melissa's experiences with racism. Their efforts were successful at causing momentary disruption in the domination of the NRS.

They carried the burden of being the only two to repeatedly intervene in the discourse in these ways; working against the multiple pressures which were supporting the Rules Stories and blocking the development of the NRS. Part of that burden included the need to assess the risks they each would be taking by their acts of narrative disruption. Since they held different positions and had different investments in the mediation, they chose to take different risks in challenging it. For example, Paula stated that she thought that Gladys would find the discussion of the NRS difficult and yet she thought it important to do anyway:

Paula: "I know that that was a touchy thing. And I did it on purpose. I wanted Gladys to know that [laughs] I was aware of that and I was going to say it even if she [Melissa] was not going to say it" (Follow up interview #1).

Paula had made a determination that taking the risk on behalf of Melissa was not only acceptable but necessary in order to try to ensure that Melissa's concerns were dealt

with about negative racialization. Once Melissa felt on equal footing with Gladys, (following the transformation in narrative interdependence in the final joint session), Melissa initiated a discussion of the NRS with Gladys. Perhaps, given a sense of empowerment in relation to Gladys, she felt more secure confronting the manager with the issue of racism. Did the strengthening of their relationship reduce the risks in Melissa's eyes? Did it imply to her that she was more likely to be believed and assisted? Did the increase in the balance of power make the risks seem less problematic? In any event, she, too, briefly disrupted the hold that the master narrative had upon the discourse.

In weighing the risks of discussing and not engaging the NRS, Paula and Melissa demonstrated double consciousness (Du Bois in Delgado and Stefancic, 2001 and Matsuda, 1995); aware of both their own experiences as targets and the views commonly held by Whites in the U.S. about racism. In particular, Paula's double consciousness provided her with the analytical tools for anticipating that issues of negative racialization were relevant and that she would need to be the one to ensure that the topic was raised. It is likely that the life experiences of facing racism had provided both Paula and Melissa with consciousness and tools for speaking out against the grand narrative.

These efforts by Melissa and, primarily, by Paula were undertaken in the absence of much support and in the face of many attempts to undermine them. They were examples of resistance against the power of the grand narrative as it was manifested in the narrative strategies employed during the mediation. Their moves can be characterized as efforts to disrupt the domination of the NRS; and, therefore, as disruptions to the reconstitution of racial oppression.

The material outcome of the mediation did not appear to be affected by Paula and Melissa's disruptive actions, however. The written agreement as well as the verbal plans Gladys and Melissa made together were based on the Rules Stories. Narrative theory explains why only those stories which have been elaborated upon have subsequent influence (Shailor 1992). Lacking narrative effectiveness (Shailor, 1992), the plans for the future, both oral and written, did not include elements of the NRS. In this way, the domination of the Rules Stories which the players had co-constructed succeeded in totalizing the exclusion of the NRS. However, while this follows from the findings and analysis presented in this study, it may not be the only explanation for the absence of the NRS in the agreement. Rifkin, Millen, and Cobb (1991) found that in eighty percent of the mediation cases they studied, the first speaker's story formed the basis of any agreement reached. They argue that the position of speaking first can set in place a pattern of narrative interdependence in which the second speaker is on the defensive (for much if not all of the mediation). This routinely lead to the elaboration of the first speaker's story by all the players; and unless the second speaker's story was built upon as well, the mediation discourse remained on this story. Thus, the majority of agreements were organized around the first speaker's story.

Looking at Rifkin, Millen, and Cobb's (1991) study in light of the findings of this case raises the question, given the fact that Gladys was the first participant to narrate, did this position in anyway compound the influence of the grand narrative on the mediation? And more generally, it raises the question of whether there a relationship between who speaks first in a mediation and the resonance of their story with the master narrative.

These questions point the way to other research needed to uncover the relationship between racial oppression, narrative processes, and mediation.

In this case study, the service providers began with the intention to promote full participation for the participants in the narrative process and in the decision-making for the future.¹⁹⁴ Despite this, the narrative of Negative Racialization was dominated by the narratives of the traditional Mediation Rules and the Rules of society; and the latter served as a conduit through which the values in the grand narrative of rules were reinforced. In this way, White privilege and the valorization of symmetry and rules were reconstituted by the narrative process of this mediation. Therefore, the conclusion of this study is that the use of processes and strategies designed to be neutral and symmetrical do not account for racial oppression and that the power of the grand narrative does not create conditions for the full participation for all. Instead, the use of symmetrical practices and the lack of attention to the power of the grand narrative can replicate racial oppression in both the process and outcome of a mediation.

Since “racism is embedded in our thought processes and social structures [and] the ‘ordinary business’ of society—the routines, practices, and institutions that we rely on to effect the world’s work [then] only aggressive, color-conscious efforts to change the

¹⁹⁴This study clearly could not explore in-depth all of what took place during the mediation. Hence, I want to acknowledge here that there were signs that other successful narrative strategies had also been employed by the mediators; moves which the participants described as supportive and empowering and which reflected the mediators’ intentions. These were most often related to the exploration of the dis/connection story and the elaboration of a future story about communication regarding the rules. The participants’ statements that they were glad to have gone through the mediation process and that the agreement they reached was fair and mutual also attests to the fact that much that was positive was also accomplished through the mediators’ narrative facilitation in this case.

way things are will do much to ameliorate misery" (Delgado and Stefancic, 2001, p. 22). And recognizing this challenges the mediation field to rethink the place of neutrality in light of the reality of racism. The findings of this study can lead us to heed the call for skepticism in the face of neutrality. If we do so then we will assume that White privilege is more likely at play (Flagg, 1997) when we mediate. We will assume that in any mediation we will be struggling against the transparency of White privilege and the power of the grand narrative of rules which reinforces White privilege through a rhetoric of neutrality and symmetry. If we take this as our charge and seek to create intervention techniques and models which respond to this reality then we will undoubtedly create new ways to interrupt racial oppression through mediation.

This study sought to explore how mediation could interrupt racial oppression through narrative facilitation, thereby creating a more socially just practice. What I found is that double consciousness is needed by all service providers to better identify the need to discuss racism and the ways in which such conversations can become marginalized. As well, what is needed is a commitment to resist the reconstitution of the racist grand narrative of rules. In order to accomplish this, clearly, new techniques and strategies for preventing narrative domination are crucial for mediators with such concerns.

Mediators and social justice advocates share a "belief in the capacity of people as agents who can act to transform their world (Freire, 1989; Weiler, 1991)" (Bell, 1997, pp. 13–14). And hopefully this study will help to highlight the importance and rich potential of combining work from both their fields in the search to make this statement one that mediators can not just believe in but will be more prepared to operationalize. This undoubtedly needs to continue to be a collaborative effort. The players involved in this

mediation have taken a lead in this with their enormous generosity of spirit and demonstration of courage, allowing their experiences to be shared publicly through this research. Their efforts are seeds of hope and justice.

Implications for Program Development, Educational Instruction, Intervention, and Scholarship

This study concludes that it is important to begin with the assumption that the mediation process and field must respond to the racial oppression present in people's lives in this society. The domination of the Story of Negative Racialization by the Rules Stories, despite the intentions and efforts of Paula, Melissa, and Caitlin begs the question, what else needs to be put in place to help to ensure that mediators are prepared with effective tools for oppression disruption? It asks us to consider what types of training, ways of teaching about mediation, models of intervention, and programmatic structures might help to capitalize on what was learned in this study.

There are a number of implications for training beginning with who needs to be included. Mediators should be joined in training by case coordinators and program staff since they also have contact with and influence the participants' experience at the mediation. This case study provided some insight into the significant impact that staff members other than mediators can have on a session. The findings point to the importance of providing trainees with both theory and practical tools for facilitating the narratives in a mediation from a critical race perspective. More specifically, mediators need an in-depth understanding of narrative theory and processes; learning how stories are constructed and how their facilitation techniques can foster or hinder story development. This is crucial training since this is what provides access to not only full participation but also to having true input in the outcome of a session.

Just as important is in-depth training on racism (and other issues of oppression). The findings also highlight the importance of providing training which illuminates the complexity of how race and racism is defined and experienced by members of different groups (Delgado and Stefancic, 2001). In particular, this requires attention to the limits of the Black/White binary of typical examinations of race/ism (Martinez, 2000; Zuniga, 2002) and to incorporating an understanding of the intersection of linguisticism (Schniedewind and Davidson, 2000) and racism. This could expand and sensitize the mediators' understanding of what markers might indicate a story of racism is present and needing to be facilitated. Attention must also be paid to the task of training mediators to effectively identify White privilege in the narrative process as well as in the narratives themselves. Given its insidiousness and transparency, this requires extensive education in why and how it can be perpetuated in a mediation. Therefore, mediation training grounded in an anti-racist approach would teach its trainees to mediate with the assumption that racism is commonplace and that White privilege is more likely than not to be at play.

Training that combines a focus on mediation as a narrative process with an examination of ways in which oppression can be perpetuated through it could prove useful. And what can be learned from this study is the importance of translating this into techniques and strategies which mediators can apply for disrupting oppressive narrative processes. This, more than merely understanding and appreciating the theory and values behind social justice mediation, can prepare mediators to encourage and protect storytelling for all participants. Finally, as part of training and ongoing support for practicing mediators, opportunities for reflective practice could provide rich learning

experiences. The use of videotaping, jointly analyzing interactions with one's co-mediator and coordinator, and receiving feedback from roleplayers and actual disputants can foster constructive critique and encourage experimentation.

A feedback loop involving mediation program practitioners and staff as well as participants utilizing the services could be quite useful to interrogate and support innovative practice ideas and techniques, keeping practitioners aware of what they might be doing that perpetuates exclusion, undermines participation, or fosters empowerment. The inclusion of participants in this process can provide access to a rich and vital source of information about whose interests are best being served. As this study demonstrated, despite committed and thoughtful efforts to the contrary, the grand narrative of rules can easily permeate mediator practice. Therefore, the vigilance afforded to interveners by reflective practice can be an important part of the continuing education.

Programmatically, besides offering such opportunities, mediation centers may want to consider structural changes based on the assumption that the participants will attend mediation with different needs and resources; specifically with regards to narrative participation. Therefore, having a diverse pool of mediators who can mediate in a number of languages is particularly important. The format of sessions, the timeframe, and the expectations laid out in the opening statement (or even if there needs to be one!) could be re-visited. This study has pointed to the potential for exclusion when using procedures based in the concepts of symmetry and neutrality.

A series of questions have emerged from this study which may have implications for how programs structure their sessions and provide support and guidance to mediators. What ways could the structure of a mediation be altered to respond to the storytelling

needs of various participants? How can a mediator demonstrate multipartiality in her opening remarks? What format would provide the best support to two mediators who are working together as a multiracial team? What protocols (if any) would be useful to reinforce the skills of narrative facilitation? What strategies can help co-mediators decide which of them should and can most successfully challenge the grand narrative of rules at a particular moment to keep a story about racism alive? When and how can a mediator act on behalf of a participant who does not want to raise the issue of racism but wants it discussed? These and other questions can also help set a research agenda related to this project.

This study speaks to the importance of including mediation participants in defining research needs, engaging them actively in the research process, and not seeing them merely as objects of study. In fact, there is a role in research for listening to those who are not choosing to come to mediation. In particular, there are many people in communities of color who have found that the mainstream and typical mediation practice does not meet their needs (Baker et al, 2000; Cooper, 2001; NCPCR, 2001). Again, a useful research agenda which is driven by the leadership and concerns of those whose needs are not being met is vital; and if we do not take this path, than whose interests is our research serving (Freire, 1989; Marya, 1997)?

Another implication of this study is that further research is needed to explore the dynamics of narration—storytelling, elaboration, and domination; with consideration given to how stories of oppression are effectively excluded or included in mediation discourse. Several questions were raised given the finding that without resonance with the dominant narrative the NRS needed additional support. What other ways are there to

provide some cultural resonance, perhaps on the local level—within the mediation room? What could that look like? Some storytelling by a mediator? Questions which assume that values and experiences in a story do not need to be “proved” to be believed to be real?

The use of a case study and narrative analysis was a useful approach for this research project and may add to the small but growing examples of how a microlevel analysis of language interactions and relations can shed some light on oppression dynamics in mediation. The conclusions drawn about this case raise the question of how often the narrative domination of stories about negative racialization might be happening in other mediations. We need more research in this area to identify those patterns of practice which replicate racial oppression and to identify those which are successful at thwarting it. In addition, we need more case study research on other areas of oppression such as gender, class, and the intersectionality of oppression. This, along with other studies on different aspects of mediation and racial oppression can help to build a broader base to inform practitioners about useful strategies for narrative facilitation which they can use in the name of social justice mediation.

An important topic that was not covered in this study is the impact of culture on the structure and practice of mediation and who is privileged by the cultural approach used. However, implications from this study can raise questions for future research on how language domination fundamentally hampers participation. Therefore, investigations into the relationship of culture and issues of domination are particularly important and add to the call made by others in the field (Baker et al, 2000; Bowland, 2000; Chew, 2001; Lederach, 1995; NCPCR, 2001). Undoubtedly, then, additional research will need

to be undertaken to explore other ways in which culture and racism (including the dynamic of White privilege) impact mediation.¹⁹⁵

And finally, educators are challenged to introduce students of conflict resolution to the concepts of mediation by presupposing that racism¹⁹⁶ is fundamentally tied to the participation of both the mediators and the parties to a conflict. We must search for new and creative ways to stimulate a commitment to seeing the two as intertwined for our students who have undoubtedly been faced with the indoctrination of the grand narrative of rules. How might this influence our teaching modalities? What texts can we include in our introductory and advanced courses on mediation, alternative dispute resolution, and conflict theory which can encourage critical thinking about these issues? An introduction to critical race theory could provide a new generation of students a useful prism through which to view mediation; and hopefully invigorate ourselves, as well, to creatively take on the challenge of eradicating racism from mediation practice.

¹⁹⁵Until the replication of White privilege is a central concern of investigation and elimination, then our models of intervention and all that supports them will continue to fall into the trap of leaving White privilege unexamined and safe from scrutiny.

¹⁹⁶Educators would do well to consider the likelihood that other power imbalances based on social group memberships are tied to mediator and party participation as well.

APPENDIX A

FOUR FRAMEWORKS FOR MEDIATION

Individual Empowerment

Humans are self-interested and
capable of transcendence

Conflict is good, in general

Mediation is a process for self-
empowerment, recognition of
other, moral development, and
transformation of individuals

Mediators are responsible for the
process

Justice is substantively contextualized by
disputants and procedurally
defined by participation,
recognition, and empowerment

Community Empowerment

Humans are good and bad, capable
and caring, self-interested
and oppressive

Conflict is negative, yet instructive;
it needs reduction;
community focus

Mediation is a consensus-building
and community-building
process, inclusive,
participatory, democratic,
and transformative for
communities

Mediators are "us", part of process,
advocates of process

Justice is defined by access to
participation and law, by
abstract universal standards,
and by community norms

Agreement Building

Humans are self-serving and capable,
both of which are good
qualities

Conflict is negative, in general

Mediation is a process to eliminate
conflict through agreement
building between individuals
and groups, to meet
individuals' needs

Mediators can be anyone with skills
and neutrality; and with these
qualities they become experts

Justice is defined by law, fairness is
determined by parties,
mediation can produce fair
agreements; disputants can
agree to fair standards for
agreements

Social Justice Critique (Mediation = Disempowerment)

Humans are self-interested and
support oppression
/oppressive institutions

Conflict is vital to fight oppression

Mediation is not rights-based

Mediators are biased, non-experts

Justice is defined by law/abstract
universal standards and is
goal of conflict and
resolution

APPENDIX B

CONSENT FORM

This is a consent form for participation in research being conducted on mediation by Leah Wing, M.Ed., who is a doctoral student at the University of Massachusetts/Amherst. The purpose of the research is to learn more about how mediation works.

Please review this form to decide if you are willing to take part in this research. You will be able to participate in mediation at this program whether or not you choose to participate in this research project. Feel free to ask any questions that you have.

I understand that participation in this study will involve:

1. Having my mediation video and audio taped
2. Having my interviews with the researcher video and audio taped
3. After the mediation is completed, watching the sections of the mediation of which I was a part and talking to the researcher about my reactions to them
4. Giving a brief (15-20 minute) interview to the researcher a few weeks after the mediation to reflect on my views of the mediation

I understand that to protect my privacy, all personally identifying characteristics will be changed, including my name, and my confidentiality will be maintained in the research and in anything that is produced from this research. I understand that the purpose of this study is dissertation research and portions of it will be used in the dissertation and oral defense of the dissertation. I understand that direct quotations may be used but my identity will be protected and confidentiality will be maintained. I understand that I can review a copy of the videotape, audiotape and transcript of the

sections of the mediation in which I took part. I also understand that I can terminate my participation in the mediation and/or the research project at anytime.

I have read the above information, have had my questions answered and am voluntarily willing to participate in this research project. I am willing to be videotaped/ audiotaped/observed during the mediation and follow up interviews. (Circle all that are acceptable.)

Name: _____

Date: _____

Signature: _____

APPENDIX C

PROTOCOL FOR MEDIATORS VIEWING THE MEDIATION VIDEOTAPE

To be told to and asked of mediators before the tape is turned on:

1. Please feel free to stop the videotape at any time to comment or reflect on something that you think is important, that strikes you, or that you would like to point out.
2. What were important moments in the mediation? For whom? Why?
3. Were there critical incidents* in the mediation? If so, explain your understanding of them and relation to them.

To be asked to mediators after the tape is viewed and #1–3 are answered:

4. What do you think is the relationship between your social group identity and your participation in the mediation?
5. What do you think is the relationship between your social group identity and others' participation in the mediation?
6. What do you think is the relationship between others' social group identities and their participation in the mediation? (Please think about both your co-mediator and the participants).
7. According to the Social Identity Development Model in which stage might each person be in regarding racism? (This includes both the participants and mediators in the mediation).
8. Were there any times during the mediation that you thought about the stages of the Social Identity Development Model?
9. If so, how did it influence your participation in the mediation?
10. Even if you did not think consciously about the SIDM during the mediation, how do you think the stages each person might be in regarding racism might have affected this mediation?
11. Do you think any of the participants in the mediation process felt empowered by or during it? If so, when? What did they do or say to lead you to have that impression? If you do not believe so, what leads you to this conclusion?
12. Describe how you feel about having mediated in this mediation.

13. What else would you like to add?

Thank you for giving up so much of your time and sharing your insights and experiences!

*A Critical Incident is an occasion which appears to alter a situation and /or relationships significantly. It may suddenly and/or dramatically change the topic of discussion; cause a significant visible reaction from others; lead people to engage in the mediation in a fashion different than they had been previously; indicate a change of mind/heart/sense of safety/investment; reflect the impact of one or more people on the dynamics of a group or an interpersonal interaction. It has the result of seeming to alter the course of the mediation.

APPENDIX D

PROTOCOL FOR PARTICIPANTS VIEWING THE VIDEOTAPE

To be told to and asked of mediators before the tape is turned on:

1. You will get to see all the parts of the mediation process of which you were a part. Please feel free to stop the video at anytime to comment or reflect on something that you think is important, that strikes you, or that you would like to point out.
2. What were important moments in the mediation? Why?

To be asked to mediators after the tape is viewed and #1–2 are answered:

3. What are you pleased to have experienced in the mediation?
4. What did you not like that occurred in the mediation?
5. What feedback would you like to give to the mediators?
6. What was helpful in the mediation? How? Why?
7. What was not helpful in the mediation? How? Why?
8. Describe how you feel about having participated in this mediation.
9. Do you think the identities of the mediators made any difference in this mediation? If so, why and how? If not, why not?
10. Do you think anything about your identity made any difference in this mediation? If so, why and how? If not, why not?
11. What else would you like to add?

Thank you for giving up so much of your time and sharing your insights and experiences!

APPENDIX E

FOLLOW UP INTERVIEW QUESTIONS FOR THE MEDIATORS

1. Reflecting back on the mediation, what sticks out in your mind?
2. What was most meaningful to you about mediating in this situation?
3. What do you believe now may have been the most helpful aspects of the mediation for the participants and why?
4. What else would you like to say about this mediation?

(Additional questions for this interview will emerge after gathering information from the mediators and participants when they watch the video of the mediation and following further analysis after that point in the research process).

APPENDIX F

FOLLOW UP INTERVIEW QUESTIONS FOR THE PARTICIPANTS

1. Reflecting back on the mediation, what sticks out in your mind?
2. What was most meaningful to you about mediating in this situation?
3. What do you believe now were the most helpful aspects of the mediation and why?
4. What were the least helpful aspects of the mediation and why?
5. Are you glad to have participated in the mediation? Why or why not?
6. What else would you like to say about this mediation?

(Additional questions for this interview will emerge after gathering information from the mediators and participants when they watch the video of the mediation and following further analysis after that point in the research process).

APPENDIX G

CONSENT FORM #2

You have completed the process of assisting in providing data about and analysis of the mediation of which you were a part. Thank you for all of your time and insight. The researcher would like to present the research in publications, to present on it at conferences, and to use some of the learnings in trainings with mediators to improve their skills and understanding. Since the viewing of a real mediation session along with the analysis from the research can help people more clearly understand what we learned about mediation, it is necessary to ask you several questions related to this.

1. Can parts of the videotape or audiotape be played in which you appear or are heard? It would be done in settings for the purposes of training and education.

Yes, for both video and audio: _____ (Signature) Date: _____

Yes, just for video: _____ (Signature) Date: _____

Yes, just for audio: _____ (Signature) Date: _____

No, neither: _____ (Signature) Date: _____

If yes, do you want to remain anonymous (pseudonym) or be named for who you are?

Use pseudonym: _____ (Signature) Date: _____

Use real name: _____ (Signature) Date: _____

2. Can the parts of the video or audio in which you do not appear but are referred to be played in settings for purposes of training and education?

Yes, for both video and audio: _____ (Signature) Date: _____

Yes, just for video: _____ (Signature) Date: _____

Yes, just for audio: _____ (Signature) Date: _____

No, neither: _____ (Signature) Date: _____

If yes, do you want to remain anonymous (pseudonym) or be named for who you
are?

Use pseudonym: _____ (Signature) Date: _____

Use real name: _____ (Signature) Date: _____

APPENDIX H

LIST OF STARTER CODES

Behavior Being Coded:	Code:
Intervention by mediators	INTERV
Trust-building effort	TRUST
Effort to connect	EC
Effort to disconnect	EDC
Identity-related comment (not race-related)	ID
Allowing participants to make decisions	DEC
Critical incident	CI
Effort to promote storytelling about past	ESTORYP
Effort to promote storytelling about present (now)	ESTORYN
Effort to promote storytelling about future	ESTORYF
Race-related storytelling about past	RSTORYP
Race-related storytelling about present (now)	RSTORYN
Race-related storytelling about future	RSTORYF
Storytelling about past (other than about race)	OSTORYP
Storytelling about present (now) (other than about race)	OSTORYN
Storytelling about future (other than about race)	OSTORYF
Race-related comment	RC
Efforts to curb participation of other(s)	CURB
Significant emotional affection in voice	EAV
Non-verbal behavior that is reactive	NV-R

Behavior Being Coded:	Code:
Non-verbal behavior that is proactive	NV-P
Pregnant silence	SILENCE
Narrative coherence	NCOH
Narrative closure	NCLO
Narrative interdependence	NDEP
Refraining, offering other interpretations	REFRAME
Framing positive connotation of other	POSCON
Externalizing the conflict	XTERN

APPENDIX I

CODE LIST

Mediator and Coordinator Moves:

SUM	Summarizing (Mediator Representation)
IOS	Introduces other's story
T	Telling someone what to do (instruction)
CURB	Moves to curb participation of other(s)
ESTR	Move to promote story transformation
MRE	Mediator representation with edit of significance
MRA	Mediator representation with significant addition to meaning
PR	Party replacement (by mediator)
DST	Discussion about story transmission
DNDEP	Discussing narrative interdependence
MAI	Mediator asks for process input (i.e.: for what next move should be)
MSTA	Mediator suggests mediator(s) taking action (re: mediation process)
INTERVM	Intervention by mediator (redirection)
INTERVC	Intervention by coordinator (redirection)
DEC	Allowing participants to make decisions

Narrative Theory (and Other) Categories:

JTS	Joint story
STRA	Story transformation
NCOH	Narrative coherence
NCLO	Narrative closure
NCLOPE	Narrative closure prevention move
NDEP	Narrative interdependence
REFRAME	Reframing, offering other interpretations
CI	Critical incident
BS	Blames self
ID	Identity-related comment (not race-related)
RC	Race-related comment
EVF	Event focus (without agent)
XTERN	Externalizing the conflict
CDR	Comments on dissertation research aspect of the mediation session

Story Ownership:

MS	M's story
GS	G's story
NS	Representing neighbor's story
PS	P's story
CS	C's story
RS	R's story
LS	L's story
MC	M's concern
GC	G's concern
MI	Mediator's concern/idea
CCI	Coordinator (R)'s concern/idea

Attributes of Speech and Nonverbals:

H	Humorous remark
L	Laughter
SD	Self-disclosure seemingly unrelated to the mediation
ESD	Move to promote another's self-disclosure seemingly unrelated to the mediation
NV-P	Nonverbal behavior that is proactive
NV-R	Nonverbal behavior that is reactive
SILENCE	Pregnant pause/pause
EM	Emotions mentioned
EAV	Significant emotional affectation in voice
HOS	Hostile remark

Process Moves:

BPS	Building on P's story
BCS	Building on C's story
BMS	Building on M's story
BGS	Building on G's story
BRS	Building on R's story
BLS	Building on L's story
BJTS	Building on joint story
EBRS	Move to build R's story
EJTS	Move to weave joint story
DJTS	Discussion of joint story
LJTS	Lack of discussion of joint story
ST	Story transmission
STothercode	ST in front of any other code means this code is transmitted as someone's story
SC	Seeks confirmation of one person's story by the other
PD	(Mediation) Process discussion
EAD	Move to promote agreement discussion
AD	Agreement discussion

Moves for Dis/Connection:

TRUST	Trust-building move
ECP	Move to connect to participant
ECM	Move to connect with mediator
ECC	Move to connect with coordinator
EDCP	Move to disconnect with participant
EDCM	Move to disconnect with mediator
EDCC	Move to disconnect with coordinator
MEDATT	Mediator attention to one participant (especially when both were asked a question)
COORDATT	Coordinator attention to one participant (especially when both were asked a question)
NOCON	No connection between i.e.: mediator and participant (i.e.: after a participant speaks, mediator is silent or does not respond and discusses something else or turns to someone else to engage)

Characteristics of Participants' Stories:

POSCONO	Framing positive connotation of Other/Self/Neighbor/Friend/M/G/D/Thing/P/C/R/L/MED
NEGCONO	Framing negative connotation of Other/Self/Neighbor/Friend/M/G/D/Thing/P/C/R/L/MED
CHAR+O	Personal character description as positive for Other/Self/Neighbor/Friend/M/G/D/Thing/P/C/R/L
CHAR-O	Personal character description as negative for Other/Self/Neighbor/Friend/M/G/D/Thing/P/C/R/L
VIC	Framing oneself as a victim
ACK	Acknowledgment of other's feelings/story
REF	Refuting other's story ("It didn't happen like that...")
DEN	Denying accusation/fault found in other's story ("It was not me.")
VAL	Person seems to feel that their view is validated
BS	Blames self
ACCU	Accusation

Storytelling (Not on Racialization or Connection):

ESTORYTA	Move to promote storytelling about taking action on behalf of one's self/group
STORYTA	Comment or storytelling about taking action on behalf of one's self/group
STORYTAO	Comment or storytelling about taking action on behalf of another
ESTORYP	Move to promote storytelling about past (other than race and connection)
ESTORYN	Move to promote storytelling about present (now) (other than race and connection)
ESTORYF	Move to promote storytelling about future (other than race and connection)
OSTORYP	Storytelling about past (other than about race or connection)
OSTORYN	Storytelling about present (now) (other than about race or connection)
OSTORYF	Storytelling about future (other than about race or connection)

Storytelling about Dis/Connection (Not on Racialization):

ECSTORYP	Move to promote storytelling about connection/relationship in past
ECSTORYN	Move to promote storytelling about connection/relationship in present (now)
ECSTORYF	Move to promote storytelling about connection/relationship in future
CSTORYP	Connection/relationship storytelling about past (not race-related)
CSTORYN	Connection/relationship storytelling about present (now) (not race-related)
CSTORYF	Connection/relationship storytelling about future (not race-related)
EDCSTORYP	Move to promote storytelling about disconnection/relationship in past EDCSTORYN Move to promote storytelling about disconnection/relationship in present (now)
EDCSTORYF	Move to promote storytelling about disconnection/relationship in future
DCSTORYP	Disconnection storytelling about past (not race-related)
DCSTORYN	Disconnection storytelling about present (now) (not race-related)
DCSTORYF	Disconnection storytelling about future (not race-related)

Racialization-Related Storytelling (Not about Connection):

ERSTORYP	Move to promote race-related storytelling about the past
ERSTORYN	Move to promote race-related storytelling about the present (now)
ERSTORYF	Move to promote race-related storytelling about the future
RSTORYP	Race-related storytelling about past
RSTORYN	Race-related storytelling about present (now)
RSTORYF	Race-related storytelling about future

Storytelling about Rules:

ERUSTORYP	Move to promote rules storytelling about past
ERUSTORYN	Move to promote rules storytelling about present (now)
ERUSTORYF	Move to promote rules storytelling about future
RUSTORYP	Rules storytelling about past
RUSTORYN	Rules storytelling about present (now)
RUSTORYF	Rules storytelling about future

APPENDIX J

FEATURES OF THE MEDIATION PROGRAM DESIGNED TO DISRUPT THE REPLICATION OF PRIVILEGE

What follows is an examination of the structure and procedures of the mediation program where this case study took place and the training which Caitlin and Paula received there. Since the program and training were designed to prevent narrative domination and the replication of racial privileging, this description is offered to provide a context for the analysis of their interventions in this mediation. I provide several examples from the case study to demonstrate the workings or lack thereof of this program's approach.

The goal when developing this mediation program was to create a structure, training, and intervention model geared towards providing services which would disrupt oppression dynamics and prevent their replication during a session. This included but was not limited to an interest in disrupting racial oppression as it might be enacted through storytelling. The methods for promoting such a disruption is based in asymmetrical strategies for the facilitation of the narrative process. Therefore, multipartiality¹⁹⁷ is valued not neutrality and we attempted to integrate that into all facets of the program.

This entire mediation project was viewed as an experiment for discovering together how to effectively apply this theoretical approach to mediation. We recognized that there would not be only one way to operationalize this approach; among other dynamics, the cultural needs and expectations of different participants and mediators would undoubtedly impact how oppression could be replicated or undermined in

¹⁹⁷ See Chapter One, p.18 for a definition of multipartiality.

narration. Therefore, a multicultural team of mediators were trained and encouraged to experiment with ways that seemed culturally appropriate given those involved and the context of their mediation sessions.

We hope to learn more about which techniques and interventions worked, for whom, and why. One of the goals of the program was to explore in what ways mediation could be a social justice practice. This meant examining the role that mediators could play as they co-constructed stories with participants; seeing which interventions might assist in preventing domination of a participant's story at a minimum, and perhaps, might lead to an outcome which materially, relationally, and contextually was empowering to each participant rather than creating or perpetuating privilege.

The mediation program was structured to provide co-mediators for each mediation. A population of mediators from very diverse backgrounds were trained. This was intentionally done as an attempt to respond to the needs of participants with various experiences and identities. Having a multiracial team from which to select would make it more likely that we could provide mediators who could immediately signal to the participants that there is someone who might understand their experience, expectations, and points of view; and that this person would be part of a team listening and helping to facilitate their conversation with the other disputant(s). Therefore, applicants for the mediation training were selected based on their identities as well as on their talents, interests, and potential. This demonstrates one way the program does not function based on symmetrical treatment; since not all trainees had the same opportunities to join. However, the individuals and the entire team selected reflect the program's interest in being able to provide the best mediators possible to help parties tell their stories. Having

mediators from similar backgrounds to the participants was to aid in building a connection and to encourage storytelling. Underlying this decision were several assumptions grounded in social justice theory and critical race theory.

The Social Identity Development Model (Hardiman and Jackson, 1997) offers a useful framework for understanding how people experience and deal with oppression. This developmental model explains patterns commonly experienced by members of both target and dominant groups. This model describes five stages which people can go through in coming to understand and respond to oppression based on social group membership. The needs, outlook, and actions regarding the specific oppression manifest differently in each of these stages. For example, in Stage Three (Active Resistance) regarding Racism, a White person may

“reject earlier social positions and begin formulating a new world view shift[ing] from an ideology that blames the victims [people of color] for their condition to an ideology that names one’s own agent [the dominant White] group as the source of oppression. Anger is a prevalent feeling at this stage—anger toward other agents and the nature of the agent’s social group identity. Some agents wish they weren’t members of their dominant group and distance themselves from other agents who don’t share their new consciousness” (Hardiman and Jackson, 1997, p. 26).

This is a very different place to be in as a White person than in Stage Two (Passive Acceptance).

“As agents [Whites] in the Passive Acceptance stage have learned and to some degree internalized codes of appropriate behavior, conscious effort is no longer required to remind them of what to do and how to think. Dominant beliefs and actions are part of their everyday life, as when a white store clerk carefully watches black customers to see if they are shoplifting. When questions occasionally arise, there is a built-in system of rationalization to fall back on and provide answers” (Hardiman and Jackson, 1997, p. 24).

In other words, Whites in this stage have been successfully socialized and have internalized the information from the dominant narratives which support racial

oppression. The actions of Whites in Passive Acceptance will support the dominant narrative that people of color are to be seen as "other" and that White culture is the center of society, the norm. They will not see acting according to this set of beliefs as racist and will, instead, view racism as non-existent, or at most, an abnormality (Delgado and Stefancic, 2001; Hardiman and Jackson, 1997).

The expectations are likely to be significantly different for a White participant entering mediation if she is functioning from a lens found in Stage Two (regarding racism) than if she is using one grounded in Stage Three. These expectations will undoubtedly impact her storytelling and about what she would feel dis/comfort and dis/interest in discussing.

Despite the stage she may be functioning in, her ability to storytell will likely be influenced by the presence or absence of White mediators and the presence or absence of questions about racial identity. For example, a White person in Passive Acceptance may become defensive if racial identity is raised by a mediator, particularly a mediator of color. Whereas, a White participant in Active Resistance may raise the issue herself, in the first place; and in fact, may direct the conversation to a mediator of color before considering addressing a White mediator about the matter.

Participants of color also can go through all five of these stages; and, in fact, given that their lives are constrained and that they belong to the group targeted by racism, they are more likely to have traveled further through the stages than Whites by the time they might find themselves in a mediation (Hardiman and Jackson, 1997).

"Targets [people of color] in the Acceptance stage [Two] have learned and accepted messages about the inferiority of targets and target culture. Often these negative/oppressive messages are held simultaneously and in contradiction to more positive messages about their social group conveyed by same group adults

or social peers. Some targets operate unaware of the degree to which their thoughts, feelings and behaviors reflect the dominant group [Whites'] ideology. Socialization of targets into the dominant world view is essentially an invisible process" (Hardiman and Jackson, 1997, p. 25).

Again, we can see how the dominant narrative about White superiority has permeated the socialization process. A participant of color in a mediation who looks at the world through the lens of this stage will likely storytell differently than a person of color in Active Resistance (Stage Three).

"The overt expression of hostile reactions to oppression marks the transition from the entry to the adoption phase of Resistance. At this point the target group member has fully internalized the antithesis of the earlier Acceptance consciousness and may experience increased and sometimes overwhelming anger, pain, hurt, and rage. The combination of these powerful emotions and the intellectual understanding of how oppression works may feel all-consuming. At this stage members of the target group often adopt a posture as anti-agent, for example anti-White. Identity is defined in opposition to the oppressor" (Hardiman and Jackson, 1997, p. 26).

Considering Social Identity Development with regards to racism and other oppression issues helps to raise important questions about structuring a mediation program. For example, it raises questions about how the stage of identity which a mediator is in might influence his comfort level with participants from backgrounds different than his own, coming from a lens in a stage different from his own, co-mediating with a mediator in a different stage. How will the lens a mediator is using influence which questions he thinks to ask? Whether he notices the signs of a dominant narrative within the storyline of a participant, for instance?

In designing this program we recognized that we could never be sure what stage participants are in and that we could not assume that based on their social group membership or even their stage that we could even anticipate how to best facilitate their storytelling. However, we wanted to attempt to provide the most conducive environment

to promote full narration for all participants. As a result we wanted a mediation program that would attempt to find trainees who were beyond the Acceptance Stage (again not providing all who seek to join with equal access) and we wanted to expose them in Social Identity Development Theory. We sought to provide them a chance to practice roleplaying a variety of the ways in which the stages of identity development might play out. And we wanted to prepare them to discuss in mediators' caucuses how to best meet the storytelling needs of participants based on their individual storytelling style and needs and the stage the participants might be in as well.

This, we trained the mediators to consider, was likely to require asymmetrical interventions. For example, mediators were taught to pay attention to the context and identities of the participants and they were encouraged to use whatever techniques they deemed appropriate to assist each participant in telling their story; while giving particular attention to not letting anyone's story become dominated. The mediators were trained to initiate questions and conversations about the interconnections between the participants' identities, context, and their experiences in the conflict, with the other participant, and their hopes for the future. They were also taught to let participants decide which questions they would respond to and what outcomes would emerge from the mediation.

The mediators practiced some specific skills, described in more detail later, which we encouraged them to regularly employ: the use of open-ended questions, active listening, and summarizing to elicit and support the discussion of storylines. The roleplay practice sessions provided opportunities to work in pairs across differences and power inequities to explore different strategies for facilitating stories and preventing story domination. However, (I now regretfully note), the mediators were not instructed in

either the microlevel dynamics of narrative theory (such as narrative coherence, closure, or interdependence).

This was the core of the training Paula and Caitlin received and their selection as the interveners in this particular mediation was designed to create an environment conducive to the storytelling for each of the two participants, Gladys and Melissa. Since Gladys is a professional woman in her thirties or forties, White, and a speaker of English as a first language (Anglophone), an experienced mediator with a similar background was selected: Caitlin. Since Melissa is a student in her twenties, a single mother, a Latina whose first language was Spanish, who had not been raised on the mainland in the U.S., an experienced mediator with as similar background as possible was selected: Paula. The mediator pool did not include someone who entirely matched her background, so a Latina whose first language was Spanish, who was not raised in the U.S., who was an international student, who was in her early thirties, and who had experience working with single mothers and children was selected.

The coordinator was selected because he was familiar with the mediation model used in this program and he was the only one available to take on this duty at this time. Care was not taken in considering the impact of the coordinator's identities or relationship with the mediators or the participants. This is a powerful learning from this research project for me. I believe that my lack of attention to the role and identity of the coordinator was a direct result of several factors. Perhaps most importantly, it was due to the fact that I was the program coordinator and I had examined the situation all around myself and not looked in the mirror with regards to the impact that a coordinator can have on a mediation. While I have regularly considered the impact of my identities during the

mediation training process, during the intake process with participants, and as a mediator, until I examined the findings in this research, I had never considered in depth the identities and relationship between (myself as) the coordinator and mediators or participants during a mediation session. An additional factor in overlooking this may be that there has been virtually no discussion of the impact of the coordinator on mediations in the literature and vernacular conversations in the field. The result of this lack of attention was that I did not consider the coordinator's identities and relationship with the mediators and participants when I selected a coordinator for this mediation case and this study. This case has demonstrated how it is possible for a coordinator to have a significant impact on the storygathering and story domination process in mediation.

In this study, mediator selection, then, were part of the first steps in an attempt to fully enfranchise both participants in their storytelling. It was hoped that the presence and skills of this co-mediation team would send an immediate message to both Melissa and Gladys that there was at least one person in the room who would identify with their life experience. It is evident from the interviews that this did work to some extent; however differently for each of them.

Gladys was glad that the mediators toned down the language, saying, "I am happy that those people turned it into 'warning' instead of 'eviction' because that helped soften the whole, you know, reason we were all there...maybe if men were there I bet I would have even softened it even more. I would have been more scared" discussing the letter threatening eviction. (Follow up interview #1). This indicates that Gladys would have self-censored had she had male mediators. She also noted that due to her socialization she would have felt more apt to resolve the situation more quickly so as not to waste the time

of male mediators. Instead, she felt less judged by having female mediators and stated that if she had been given a choice of mediators, she would have selected women.

Melissa stated that she thought that Paula likely understood how she felt as a Latina and that this was confirmed for her when Paula raised the question of whether she was the only "Latin American, or maybe Puerto Rican descent person" living in her area. I then asked her: "So, how did it feel that she said it outloud?" She paused for a bit and then said: "It felt like, you see, I'm not the only one who sensed it. It was a relief." She went on to note that only people of color tend to notice these things: "Sometimes people from the minority culture analyze things beyond what they seem." She mentions that she did not feel comfortable raising the issue of race with White Anglos but that it helped that Paula had raised it. She also stated in her first Follow up interview that she felt like the two mediators worked well together on her behalf.

Melissa: "I mean like, they're complimenting each other. They're—one—Paula is watching from like from my personal point of view [said very slowly and distinctly] and trying to give me such a—more of a—impartial recommendation [said carefully with thought] for how to get what I want from the mediation. Then, what's her name?"

Leah: "Caitlin."

Melissa: "Caitlin, [pause] is generalizing, broadening a little bit more, giving some suggestions. And—and both of them are like trying to combine what they're perceiving from—from —from the meetings and from everything and trying to get something fair" (Follow up Interview #1).

Gladys identified that having two female mediators made her more comfortable and Melissa found having a Latina mediator reassured her experiences would likely be understood. Interestingly, each participant refers to a target social group membership which they have in common with a mediator/the mediators. This is not a surprise given the likelihood that each has experienced oppression based on these memberships. Both

appear aware that a mediator of a similar background might make a positive difference in their session; and, interestingly, these are the only identity-related comments made about the mediators by the participants. This is an example of what was hoped for when the mediator selections were made.

And, at the same time, another phenomenon occurred in the opposite direction. Each participant also spoke of self-censoring their story in relation to their target identity because of the presence of members of the dominant group. Being a woman is a target identity for Gladys and she pointed out that had she been in the presence of those from the dominant identity—males—she would have self-censored her storytelling. This is strikingly similar to Melissa's situation. Melissa, targeted by racism, stated that she self-censored her storytelling due to the presence in the mediation of members of the dominant group. Therefore, according to the participants' own analyses, the identities of those in the room affect(ed) their storytelling.

In what ways might Caitlin and Gladys' presence in the joint sessions and Caitlin's presence in the private sessions impacted Melissa's decision not to raise the topic of her negative racialization? From the start, we can see that Melissa was choosing to self-censor because there were Whites in the room. Gladys did not indicate that she had any reason to self-censor. This indicates that in this particular case, it appears that Gladys benefitted from belonging to the dominant group (Whites) and not having a targeted status within the room. While this was not the case for Melissa and this affected both of their storytelling choices and actions from their perspectives.

This presents a dilemma since, once in a private session with Melissa, she was still faced with a White mediator. What more could have been done to make her feel

comfortable to storytell in Caitlin's presence? What could have been structurally within the program to reduce the likelihood that Melissa would (consider) self-censoring?

Another structural aspect of the program which can impact storytelling participation involves the day, time, and length of the mediation sessions. These are typically jointly decided upon by all those involved. The mediators usually tell participants to reserve about two to three hours for the mediation session and inform them that they can end earlier, stay longer, or return for an additional session if they wish. It is common for the mediators to regulate how long the joint sessions last and the private session time with each participant. No moves into or out of private and joint sessions are done against the wishes of a participant. The mediators typically use a mediators' caucus in between each joint and private session to plan for the next session and to check in with one another and the coordinator as needed. These caucuses take approximately five minutes. When I coordinate, I usually drop in for every mediators' caucus with new mediators to be sure there are no difficulties or questions, to give them support, and, when necessary, to remind them to be vigilant about story domination. With experienced mediators I sometimes check in each time they caucus and at other times I merely let them know at the beginning that I am available if they need me. Both methods are commonly employed in other mediation programs. Fewer programs, (more commonly used with youth mediators), have a coordinator seated in the back of the mediation room observing and available for support.

A further look at the ways in which this program structured the procedure locates additional places where the disruption of oppression dynamics and narrative domination could occur. The mediators are taught to hold a joint first session with all present for

approximately fifteen minutes and (unlike many other programs) to spend the vast majority of the time in private sessions. This is a structural attempt to protect the storytelling process of each participant. The goal is to provide an environment in which the participants can narrate without having to respond to being negatively positioned in the other participant's narrative; (in other words, not having to respond to the other's framing of their narrative interdependence). This is an attempt to undermine the beginnings of story domination. For example, Cobb and Rifkin (1991) found in approximately three quarters of the community mediation cases studied, the first speaker's narrative dominated the session and the agreements (Cobb, 1993). Therefore, we decided to structure the mediation process to provide for the majority of the storytelling and construction to take place during private sessions. It was hoped that this would also undermine story domination which could occur due to a story's cultural resonance with a dominant narrative, or even due to the discursive finesse of a particular individual (Wing and Rifkin, 2001).

The traditional approach to the use of ground rules in mediation is that they are introduced to the participants in the opening joint session. Increasingly programs are exploring the idea of co-creating guidelines with the disputants and some are now advocating allowing participants to determine whether or not to have any (Bush and Folger, 1994). Again, in this program the decisions made about groundrules have been driven by a desire to attend to the needs of those "at the bottom" (Matsuda, 1995). This is another arena in which the program was designed to respond to participants' asymmetrical circumstances. What Caitlin and Paula did in this case, then, was typical for our program: to request that a few groundrules are followed to attempt to ensure that the

least empowered participant would be able to narrate. The few ground rules which are often utilized in this program focus on communication; for example, to let people finish their thoughts rather than interrupt and, at times, mediators have asked participants to speak to them rather than to each other. Paula and Caitlin used these as well as stating:

Paula: "Another important rule is that umm, you also show respect for each other and ahh, you know, don't interrupt and we also ask people umm, that—to umm, try not to engage in name calling or raising their voices." (Mediation transcript).

It is common in this mediation program that after the mediators explain the process, the participants are given a chance to briefly explain why they have come. Then the mediators caucus to decide which participant to meet with first in a private session. Mediators in this program have been trained to consider the following asymmetrical (in this order) for making a determination: (1) Who trusts the mediators/mediation process least? (2) Who has told less of their story in the first joint session? (3) Who is likely to have less of an opportunity to have their story told, validated, engaged with, elaborated upon, or to have it reflected in the culture at large? The reasoning behind these priorities are described below. There needs to be enough trust for the mediators that the participants will speak with them and if one participant is especially untrusting and s/he is left waiting while the other has a private session first, it can cause an increased challenge if not irreparable harm to the storygathering process with the untrusting participant. If one participant is feeling empowered enough to have told much more of their story than the other during the opening joint session then the mediators need to be sure that the other participant feels connected to and trusts them enough to share his/her story as well. And finally, if the first two criteria are seemingly irrelevant or equal given the particulars of the participants' relationship with the mediators, I developed the third criteria as a

strategy in an attempt to signal to someone that discursive space will be carved out for them to tell their story, when, due to their identity, they might likely have had experiences to the contrary in society. By bringing this person into the private session first, we hope that it will be a message that we are trying to give them protected narrative space and time to develop a story—one that will be listened to, engaged with, and elaborated on—and that they will begin to see that they will not be merely a respondent to the other participant's story. In other words, the participant on the bottom (Matsuda, 1995) is given top priority to be heard from first. This asymmetrical move is an attempt to counter the power of previous experiences which likely favored those in a dominant group.

The mediators are taught to alternate the private sessions between the participants; with the mediators helping to facilitate the narratives and engaging with each of them. During these private sessions both mediators are present, helping to facilitate the development of contextualized narratives. When the participants indicate that they have presented their full narrative, with permission, the mediators convey each participant's narrative to the other. Once both participants are ready to hear each other's narratives, the mediators have been taught how to transmit the stories: first to convey any positive connotations one participant has said about another, next to convey joint concerns and meanings attributed to their stories, and then to convey concerns and meanings that were different between the stories.

Originally, this program used this approach because it seemed to assist in helping participants explore each other's stories and consider that other interpretations and characterizations were possible. It gave participants a chance to think through options and

a variety of possible decisions about how they wanted to picture and engage with the other in the future; it also gave them a chance to consider what they would ask for and offer the other participant. Over the years of conducting this mediation program, and after further examination of narrative theory and its impact on mediation, it became clear that what can happen during this process can contribute to: the destabilization of narrative interdependence, the development of alternative interpretations which may lead to a destabilization of the conflict story, and the creation of an increased understanding of the meaning each made of their own and the other's stories. This, in turn, can lead to story transformation about the past as participants re-evaluate their own stories in light of the new information they now have and to co-construct a future narrative with positive positioning for each participant.

An example of this is when Gladys re-thought the meaning of her letter to Melissa after hearing how it affected Melissa. She stated that if she could do it again, she would not have written it in such an intimidating fashion. Melissa's character role in Gladys' narrative about the past had shifted from "irresponsible" tenant to a positive position as a person able to have been intimidated and who had not needed to be intimidated since she wished to follow the rules. The story transmission in this case altered the narrative interdependence, made room for an alternative interpretation of the past in Gladys' narrative, and ultimately, helped Gladys position Melissa positively in the future narrative they co-constructed.

This also had occurred for Melissa by the end of the mediation when she had learned how Gladys now perceived her. Melissa discusses this during her first Follow up interview: "I think she hated me or something [before the mediation]." Then after

watching the video clip in which Paula tells her that Gladys “really perceives you as someone responsible and who has good intentions,” Melissa stops the video and says, “that’s when it starts—I felt more relieved.” It is at this point that Melissa says she no longer feels like Gladys is her “boss” or “the director” and that she is 15 years old. Once she knew that Gladys saw her as a mature person it shifted her view of Gladys, as well.

Melissa: “With the letter, I thought she was a monster and wanted to throw me out of the..and that was about it.”

Leah: “What shifted?”

Melissa said understanding Gladys and her job more helped; “Still I was not pleased the way she approached me but then I understood the administration did not have something against me. I feel I am able to—to communicate with her. If I go to her with a problem Gladys will work things out. She’ll be more receptive. But before this I couldn’t go to her. She’d be like ‘You’re a troublemaker’” (Follow up interview #1).

These are examples of what we had hoped could be accomplished by providing private opportunities for each person to tell their story, hear the other’s story, and reflect on them both.

Story transmission is almost always undertaken in private sessions as that frequently allows the mediators the opportunity to focus on the needs of one participant at a time, to manage this complex stage in the story elaboration process with as few complications as possible, and to allow participants an opportunity in private to “save face,” change their minds, and explore alternative interpretations. These things could be done in a joint session but experience has shown that this can complicate matters as participants posture, continue to justify their own behaviors in response to another’s

negative positioning of them, and hold on to previously stated negative positions of the other. This makes the facilitation process more challenging for mediators, as well.

However, despite the stated benefits of utilizing private sessions to this extent, there are risks involved; for example, mediators could omit or misinterpret/misrepresent aspects of a story. To avoid these problems, many programs do not hold any private sessions or at least bring participants together at this point. Clearly both the use and the absence of private sessions carry risks, neither is a neutral choice or one that provides ultimate protection in the political process of story management. Therefore, we have consciously chosen to keep participants apart throughout most of the process for the reasons given above, and we do so unless the participants request a change in the structure of the process.

Private sessions typically last about twenty minutes at first and then sometimes become longer as the mediation progresses. It is common for each participant to have two or three private sessions before a mutually acceptable future story emerges (or players decide to end the process or schedule another session). The exact number of minutes and number of private sessions each participant gets is based on their storytelling needs and, therefore, may not be symmetrical between them. When a mutual future story is emerging, the mediators usually bring the participants together for a final joint session in which the plans are confirmed, sometimes apologies are stated, and agreements are written if the participants choose to have their plans put on paper. Agreements are signed by all participants and the mediators; and it is typical at this point for the coordinator to be brought into the session to witness the agreement by his/her signature, to thank everyone, and to reassure the participants that s/he will be following up to check in and

provide support for the success of their plans. If a mutual story has not emerged often a joint session is used to summarize the clarity reached, any next steps participants have decided to take separately, and to offer an opportunity to meet again.

Beyond some of these unique aspects of the program's structure and the training of the mediators, there are specific skills, as previously mentioned, which mediators are taught and to facilitate the storytelling in a fashion designed to prevent even inadvertent story domination. In particular, mediators in this program use questions to stimulate discussions of identity-related matters and of the larger contexts in which the participants are functioning. While most programs teach mediators to ask open-ended questions to expand what is talked about, we encourage them to explicitly explore identity issues. Questions may have to do with the history of the relationship, the meanings of the incidents discussed, and the role that identities play in each participant's story. Race, class, gender, organizational position, sexual orientation, geographic region, religion, or whatever identities are clearly different between the participants and/or appear to be potential components of the story are to be pursued.

This approach is designed to broaden the material discussed and to show that the mediation is a safe place to talk, in confidence, about any aspect of life experience that a participant may consider relevant to their relationship and conflict. It is also meant to expand the narratives to attempt to prevent self-censorship about a topic which a participant thinks is relevant. If a participant has been socialized that an aspect of their experience and story will not be welcomed in a discussion, then the mediators have been trained to consider ways of proactively undermining that; to try and create a narrative space that solicits the participant's full story. The mediators try to convey that once told a

story will be engaged with and built upon by the mediators at the very least. Again, this approach is asymmetrical, designed to respond to the needs of those whose stories have more likely not resonated with the dominant narratives in society.

As was mentioned above, this was the reasoning behind Paula asking Melissa about the racial identities of those who lived around her. Mediators in this program are also taught to consider which mediator might be the best person to ask or summarize an identity-related question. If a participant states that he or she does not want to discuss an identity-related matter the mediators know to respond to and respect their request. However, mediators have also been told that if they deem it culturally appropriate to offer advice about any aspect of the mediation, including dealing with identity issues, then they can choose to take the risk and do so.¹⁹⁸

Aware of these strategies for intervening regarding identity issues that are used in our mediation program, Caitlin noted that, in this case study, she and Paula missed an important opportunity in their caucuses. She thought that they should have discussed who should raise the issue of race and racism with both Melissa and Gladys. She wondered if she could have made Melissa more at ease talking about the matter if she, as a White

¹⁹⁸ It is typical of most programs to value participants making all their own decisions without pressure from the mediators. This is more common among facilitative or transformative mediators, while some evaluative mediators in the U.S. do use pressure tactics (Bush and Folger, 1994). However, not offering advice may not meet the needs of those who do not share this White Anglophone cultural value. For example, note that Melissa volunteered that she liked that Paula and Caitlin gave her an "impartial recommendation" and "some suggestions" (Follow up interview #1). This has been echoed by mediation trainees from cultural backgrounds other than White and Anglophone who have pointed out some participants, given their cultural expectations, will likely want mediators offer suggestions and give advice.

person¹⁹⁹, had seemed at ease and had initiated engaging with Melissa on these topics. In addition, both Caitlin and Paula described their regret at not having insisted to Robert that they meet in a second private session with Gladys to discuss the negative racialization story with her. Again, Caitlin pondered after the fact, what impact she might have been able to have as a White mediator to have asked Gladys about being a White manager, what role she saw for herself in this situation, and how it felt to discuss it as a White person (personal communication, 2/15/02).

Another skill mediators are taught to use is to show through nonverbal behavior that they are interested in and open to participants' stories. Since people demonstrate and understand active listening differently due to their cultural socialization, personal style, and a variety of other factors, mediators in this program have been explicitly encouraged to show their sincere interest in hearing someone's story and to respond if they find that some of their behavior seems not to be taken well. They are taught to try their best to tune into the cultural and personal storytelling needs of the participants. While the mediation training offered in this program raises some consciousness about cultural differences, we also actively sought to create a multicultural pool of mediators. This way we could try to match the cultural backgrounds of the participants in each mediation. Our intention being that such a match would likely mean that the cultural cues regarding respect, trustbuilding, and sincere interest would be shared and interpreted in the same way that they were intended (Cohen, 1991).

¹⁹⁹ Caitlin did not raise the linguistic identities at this point. Therefore, she refers to herself and Gladys as Whites here and not as White Anglophones.

Summarizing what the participants have said is a technique that the mediators rely on to demonstrate several things: active listening, to ensure that the mediators heard what a participant said in the way that he intended it to be understood, to validate the speaker's feelings, and to connect with the speaker, for example. These last two points, in particular, seem to serve the function of building trust and demonstrating engagement with the speaker's story. Often, after summarizing, a mediator will ask a follow up question and this provides two different opportunities. One, the speaker can hear her story engaged with and elaborated upon. Two, if the speaker feels more connected to and validated by the mediators over time due to their summaries, it is easier for them to ask a question later that the participant may find challenging. For example, it can help to have already established some trust between the mediators and the participants when the mediators move to the phase of story transmission. When one participant is informed of the other participant's story, that former is, in effect, being given an alternative interpretation to consider. This must be done delicately or he can feel put on the defensive and this could potentially undermine the participant-mediator relationship and the storytelling process.

The more trust a participant has that the mediators are not going to be a party to the domination of her story and that she will have control over how she constructs or chooses to alter her past and future story, the more likely it is that a participant will continue such a discussion without shutting down communication with the mediators. Therefore, mediators in this program have been taught a strategy in the hopes of allowing participants to explore alternative interpretations rather than have them imposed by the mediators. For example, mediators will ask a participant to describe what meanings she

and the other participant have given to each of their own stories and to each other's. This can sometimes result in a participant challenging herself (Winslade and Monk, 2000). The mediators also sometimes summarize the participant's interpretation as she has stated it and then ask the participant if she wants to know what meaning (i.e.: alternative interpretation) the other participant has told the mediators that he has given to that situation. With permission, the mediators convey that information.

These tools are used to demonstrate that the mediation is a place: where discussion of topics often marginalized in the dominant narratives in society can have visibility; where the participant's full experience (and context) can be explored from any angle they may find useful; where the mediators see the participant's context as relevant to the storytelling; and where the participants can control whether or not they want to elaborate on a question asked. This approach reflects that in this program the mediators see themselves as co-constructors of the process and the content discussed. This approach is political; and since we believe that there is no way not to be, we consciously try to facilitate the construction of narratives in socially just ways within the mediation session.

The final component of the structure of a mediation session that I will present here is that of location. Our program attempts to find a place in which both parties are likely to feel comfortable speaking and to which neither party will feel significantly more comfortable with than the other. The location is best when it offers confidentiality to the participants when they are waiting to come into the mediation room and when it offers amenities that make the process easy; for example, a well-vented or well-heated space, convenient access to bathrooms, and quiet waiting areas for the participants to sit in while they are not in a session. It is preferable to have access to two waiting rooms in case the

participants are uncomfortable waiting in the same space together when the mediators meet in their caucuses. In addition, in our program we have spaces to use that provide access for people who use wheelchairs.

The location of the mediation in this study offered much, although not all, of what was desired. It was on the campus where the Melissa and one of the mediators went to school, where the other mediator and the Robert worked, but it was not a place with which the Gladys was familiar. However, a site at the university was selected since she requested not to mediate on the premises of her workplace and she had volunteered to come to the campus. Probably what would have been truly multipartial for both participants would have been to have mediated in a private space within the town where both the campus and the apartment complex were located.

Unbeknownst to the program, Melissa had relationships with some graduate students who had an office on the hall. She periodically went to there when she was not in the session and she did comment on this in front of Gladys. Hopefully, Gladys did not mind that she was more of an "outsider" in this context. This, however, speaks to the benefit of ensuring that each participant feels fully comfortable with regards to how connected or unconnected they are and the other participant is with the location. In what ways might have each players' comfort level and the relationship with the setting had on their participation? This would be worth exploring in additional interviews.

The programmatic structure, the training, and the intervention model of this program were consciously designed to attend to issues of oppression and to seek to prevent replication of racial and other forms of domination and disenfranchisement during the mediation process. It has been quite evident to all involved in this is a goal and

that there will be (and have been) much to learn along the way—what we have overlooked due to our privileges, stages of identity development, and personal failings. In particular, we have continued to uncover ways in which we have supported the dominant cultural values in this country. For example, we have mediated with an assumption that personal empowerment is of great importance as manifested through providing opportunities for participants to make their own decisions. We have designed sessions to take place in rather formal settings, with tables and chairs and no food. While we have, at times, altered or deviated from these patterns and have discussed welcoming ideas for changes from the diverse mediator pool, there is no doubt that this program remains heavily influenced by the dominant culture's values. These shortcomings, along with what we have hoped were important advances in creating discursive space for each disputant's stories, have created the backdrop against which this mediation case study was undertaken.

APPENDIX K

NARRATIVE STRATEGIES WHICH FOSTERED THE MARGINALIZATION AND DOMINATION OF THE NRS

1. All players change to the discussion of an aracial topic: the setting, the Rules Story (RS), the story of traditional Mediation Rules (MDR), raceless stories, dis/connection, needs, feelings, parenthood, time, age, supporting Melissa.
2. All players seek to externalize the problem at some points.
3. All but Melissa do not engage with the NRS at some points when it is raised.
4. Only the Latinas initiate engagement with the NRS; and they do so with passion, naming it as reality and as related to the future (Melissa and Paula).
5. Both Whites and a demonstratively uncomfortable Latina give indirect support or engagement with the NRS (Gladys, Caitlin, and Melissa).
6. The two Anglophone service providers (Caitlin and Robert) rarely respond non-verbally.
7. All the people of color show signs of discomfort during NRS segments: Robert when it is raised, Melissa when it is raised in front of Gladys, and Paula at Robert's attempts to drop the NRS.
8. Only the participants focus on the narrative positions of the characters (positive or negative) in the NRS; both Melissa and Gladys frame themselves and each other positively and frame the neighbors negatively.
9. Mediators make moves to take care of those who do not want to discuss the NRS (Caitlin and Paula).

APPENDIX L

NRS TRANSCRIPTS

#-EAV \$-VIC %-OSTORYP %-POSCONS %-POSCONM %-NCLOPE
 ~-RUSTORYF %-DCSTORYN %-DCSTORYP

M: "because they're gonna call the 2540 -# -\$ -% --
 cops." This is how I'm feeling in my 2541 | | | --
 own house. (Sounds emphatic) And then 2542 -# | |
 the —my next-door neighbor she's like, 2543 | |
 I've like, I've asked her, "Look, am I 2544 | |
 really bothering you? Am I really 2545 | |
 loud? Is something that" and she's 2546 -\$ |
 like, "Well, I don't think that there 2547 |
 is nothing wrong that you can do about a 2548 |
 three-year-old running up and down. 2549 |
 You know" 2550 -%

!-ECP

C: (simultaneously) uh hmm 2552 !

!-VIC #-OSTORYP

M: "I don't think there is nothing that 2554 -#
 you can do about— even the extractor 2555 |

!-L

(laughs) makes noise and the other 2556 !-#

!-ECP

C: Uh hmm 2558 !

#-OSTORYP #-RC #-VIC #-ID

M: the other neighbor keeps listening 2560 -#
 to it. But I need to put when I am 2561 |
 cooking because then I'm gonna 2562 |
 asphyxiate myself in my house. (Says 2563 |

!-L

laughingly) you know it, it's a closed 2564 -#
 apartment. You know, everything 2565 |
 bothers these people. Is like 2566 |
 everything! Everything! Every single 2567 |
 thing! 2568 -#

NRS
 #1

!-ECP

C: Uh hmm 2570 !

#-VIC #-OSTORYP

M: I cannot even talk like thins in my 2572 -#
 own room because the nextwall neighbor 2573 |
 bangs on the wall. 2574 -#

!-ECP

C: Uh hmm 2576 !

#-EAV #-VIC #-NEGCONO #NEGCONN #-OSTORYP #-REFRAME
#-RUSTORYP

M: You know. And then, then that 2578 -#
letter came after all these bangings 2579 |
on the wall. I'm like, who you gonna 2580 |
think told that inaccuracies? Your 2581 |
nextwall neighbor! Because she 2582 |
assumes that you're the one who's in 2583 |
the fight and – and your kid is the one 2584 |
who's screaming. 2585 -#

!-ECP

C: Uh hmm, uh hmm 2587 !

#-SUM

P: Alright. M., let me see if I got 2589 -#
all the facts that you're talking 2590 |
about. I heard you saying that, I 2591 |
mean, first there is a problem with 2592 |
this neighbor who basically it's 2593 -#

!-NV-R

M: (simultaneously sighs) 2595 !

#-SUM

P: very uncomfortable with noise and 2597 -#
bangs on the door and has swore 2598 |

!-ECM

M: Umm (Said as an affirmation) 2752 !

#-SUM #-ESTORYP ~-RUSTORYP

P: And the cops came and then this 2754 -# ~-
happened in the parking lot and then 2755 -# |
they left. Right? 2756 -# |

!-OSTORYP

M: They left inside the house, I guess. 2758 ! ~-

!-ECP

P: They—yeah. 2761 ! ~-

!-ECM

M: Umm. 2763 ! ~-

!-SUM

P: That's what they saw. 2765 ! ~-

!-ECM

M: Uh, hum. 2767 ! -\$

!-ECP

P: Okay. 2769 ! ~-

!-SILENCE

PAUSE: 2771 ! ~-

#-EM #-DEN #-VIC #-OSTORYP #-POSCONS #-POSCONM

M: And after that I received the letter 2773 -# ~-
and I was like crying and everything. 2774 | |
I'm like, they're evicting me of 2775 | |
some—I haven't done anything, you 2776 | |

\$-STORYTA

know. And I wrote a huge letter 2777 | | -\$
saying that there was inaccuracies and 2778 | | |

%-OSTORYF

they should like call the cops and 2779 | | | -%
call me that's very unfair 2780 -# ~- -\$ -%

#-ECP

C and P: (Simultaneously) 2782 -#
(unintelligible) 2783 -#

!-ECM

P: May I ask you 2785 !

!-ECM

C: go ahead (to P.) 2787 !

!-PD #ID #-EAV #-MI ~CI

P: I have just one more question. Ahh, 2789 !-#
you just said that you live in the 2790 | |

!-EDCSTORYN \$-ERSTORYN \$-RC

middle of elderly people. I also was 2791 ! | -\$
wondering if you're also the only 2792 | |
ummm, Latin American or maybe Puerto 2793 | |
Rican descent person (said with a 2794 | |
smile in her voice) person in this 2795 | |
area? 2796 -# -\$

!-SILENCE !-NV-P

QUIET: 2798 !

!-ERSTORYN

P: You are. 2800 !

#-EAV #-RSTORYN

M: Uh, hum. I am. (Voice is noticeably 2802 -#
quiet and sounds resigned) 2803 -#

!-ECP

P: (Unintelligible) 2805 !

#-RC #-RSTORY #ID #-DCSTORYP ~RUSTORYP

M: I—I didn't even wanna go there. But 2807 -# | ~
in the first letter that I wrote I was 2808 | |
like, I'm not even gonna go into the 2809 | |
fact that I am single mother, Latino, 2810 | |
young parent, student in this area 2811 | |
because then I would be saying that 2812 | |
you guys are racist. 2813 -# |

!-ECP

C or P???: (Very quietly) uh, hum. 2815 !

#-RC #-RSTORYF #ID #-EAV #-DCSTORYN #-REFRAME

M: and I don't wanna go there because 2817 -# | |
then I am assuming you guys are racist 2818 | |
but then—I guess I—maybe if it was a 2819 | |
Caucasian woman, too, single mother, 2820 | |
young, parent maybe, I guess, maybe 2821 | |
they will act the same way towards her 2822 | |
(ends sentence with question mark in 2823 | |
her voice)? You know, I don't 2824 | |
them—a—to accuse them or something 2825 | |
that I'm not really sure about. 2826 | |
But that's a fact 2827 -# |

!-ECP

C: Uh, hum 2829 ! |

NRS
#2

#-L #-RC #-RSTORYN #-EAV #-DCSTORYN #-REFRAME

M: that I'm the only Latina there. I'm	2831	-#			
the only one who has a kid (laughs a	2832				
little). I'm the only one twenty-two year	2833				
old there (continues to laugh a little;	2834				
voice is climbing the scale in	2835				
pitch as she finishes each sentence)	2836	-#			

!-BMS !-TRUST !-SUM !-ECP !-ID

C: the only single mother	2838	!			
---------------------------	------	---	--	--	--

#-ID #OSTORYN #-DCSTORYN #-REFRAME

M: the only single mother (suddenly her	2840	-#			
voice returns to normal pitch) in that	2841				
area.	2842	-#	~		

!-ECP

C: Uh, hum.	2844	!			
-------------	------	---	--	--	--

#-ID #-DCSTORYN \$-EAV %-OSTORYP *-VIC

M: Because the other kids—you'll see	2846	-#	-\$	-%	-*	
the difference if you go to this	2847					
complex, you know what I mean?	2848					
Families are on one side and the	2849					
elderly people are on the other side	2850					
(she seems to be exclaiming this). You	2851		-\$			

#-DEN +RUSTORYP

know what I mean? I mean, I'm like—	2852		-#			+	~
I'm like—well it's not my fault	2853						
for me living there because the	2854						
administration put me to live there.	2855		-#		-*		

!-SILENCE \$-REFRAME \$-IOS

And maybe they didn't wanna (pause)	2856	!			-\$	-\$		
-------------------------------------	------	---	--	--	-----	-----	--	--

*-OSTORYN *-ACK

discriminate against me. But then, I	2857			-%	-*	+	~
understand the fact that these elderly	2858						
people need their peace, too. You know	2859						
what I mean?	2860	-#	-\$		-*		

!-ECP

C: Uh, hum.	2862	!					
-------------	------	---	--	--	--	--	--

!-SILENCE !-NEGCONO !-NEGCONN !-NEGCONG #-EAV #DCSTORYN
#-OSTORYN #-VIC

M: They should like (pause) it's like I	2864	!-#			
don't know what to do (her voice	2865				
sounds distressed) you know. I really	2866				
don't know what to do.	2867	-#			

!-EAV !-ECP

NRS
#2

P: (unintelligible—sympathetic sound) 2869 !

#-POSCONM #-POSCONS #-ACK #-IOS #-REFRAME *-DCSTORYN

M: I am in a position that I wanna give 2871 -# -*

#-EAV %-EM @-VIC

them their peace but then I'm feeling 2872 -# -\$ -% | -@

^-NEGCONO ^-NEGCONN

uncomfortable because this other lady 2873 | -% | | | ^

is not giving me the b-r-e-a-k of 2874 | | | | ^

living my own life (sounding annoyed). 2875 | | | | ^

#-ID #-RSTORYN

And that I have the right to live 2876 -# | | | | ^

there as a normal person—normal young 2877 -# | | | | ^

%-ECM

parent with a three-year-old kid. You 2878 -# | -% | -@ | ^

know what I mean? 2879 -\$ -% -* |

!-ECP

C: Uh, hum. Uh, hum 2881!

#-IOS #-ACK #-REFRAME #-ID #-EM #-OSTORYN

M: But I understand that they 2883 -#

may—elderly people may feel 2884 |

uncomfortable listening to a kid 2885 |

running up and down all day. 2886 -#

#-ECP #-MRA

C: Uh, hum. Uh, hum. That's really 2888 -#

hard, isn't it? When you're trying to 2889 |

be a patient and a student and manage 2890 |

things and it sounds like 2891 |

you—you—you have some real 2892 |

sensitivity also to the fact that 2893 |

people without little kids have 2894 -#

!-EAV #-CSTORYP #-OSTORYP

M: (Simultaneously) of course! I've—I—I 2896 !-#

talk to this lady as if she is my 2897 |

grandmother, you know what I mean? 2898 -#

!-ECP !-MRA

C: a different (unintelligible). Yeah. 2900 !

!-CSTORYP !-OSTORYP

M: like with my grandmother? 2903 !

C: Uh, hum? 2905 !

#-POSCONM #-POSCONS #-OSTORYP #-CSTORYP

M: There's somebody living besides her 2907 -#

NRS
#2

\$-NV-P

that's really noisy? I'll go knock on	2908		-\$	
the door (knocks on the table). "Hey, my	2909		-\$	
grandmother's trying to have—to	2910			
rest, you know what I mean?	2911	-#	-\$	

!-ECP

C: Uh, hum Uh, hum.	2913	!	-\$	
---------------------	------	---	-----	--

#-VIC #-OSTORYP #-EAV #-DCSTORYN

M: But then what can I do when I having	2915	-#		
this position?	2916	-#		

!-ECSTORYP	!-ESTORYF	#-CI					
P: no but would like?			3098	!	-#		
!-EAV	!-OSTORYF	!-CSTORYF					
M: oh yeah! I mean			3100	!			
!-ESTORYF	!-ECSTORYF						
P: I mean as, you know, not if they—			3102	!			
!-ECM							
C: okay			3104	!			
\$-ESTORY	\$-ECSTORYF						
P: I'm not asking if they want—would			3106			-\$	
you like?			3107			-\$	
\$-EAV	\$-EM	\$-OSTORYF	\$-POSCONS	\$POSCONM	\$-RC	\$-RSTORYF	
\$-CSTORYF	\$-L	\$-ECM	~RUSTORYF				
M: It's like—how can I say it?—it's			3109			-\$	
like, I don't really matter. (laughs)			3110				
It doesn't really bother me if they			3111				
move me or not. I don't really care.			3112				
Because then I will feel so good that			3113				
my daughter has like neighbors to play			3114				
with. You know what I mean? I would			3115				
love to move from there because then			3116				
ahh maybe I am being considerate to my			3117				
other neighbors. You know what I			3118				
mean? But then, (voice drops to a			3119				~
hush) wouldn't they like think that's			3120				~
discrimination? You know what I mean?			3121			-\$	~
\$-ERSTORY	\$-ECSTORYF	~ERUSTORYF					
P: Who would think that is			3124			-\$	~
%-CSTORYF	%-RSTORYF	~RUSTORYF					
Discrimination? M: That maybe the like			3125			-\$	-%
management or something?			3126				-% ~
\$-ECP	\$-ERSTORYF	~ERUSTORYF					
C: Does it feel like that to you? That			3128			-\$	~
it would be discrimination to move? If			3129			-\$	~
that's the decision?			3130			-\$	~
\$-OSTORYN	\$-EAV	\$-RSTORYN	\$-DCSTORYN				
M: Umm. For my point of view, I'm			3132			-\$	
like, "shh".			3133			-\$	
!-ECM							
P: Okay (quietly to C.)			3135	!			
\$-EAV	\$-RSTORYN	\$-DCSTORYN	~RUSTORYN				

NRS
#3

M: (Simultaneously to P. speaking) It's like (voice trails off).	3137	-S	--
	3138	-S	--
!-INTERVM !-MI			
C: I think that—that umm	3140		
!-EM !-RSTORYN !-DCSTORYN			
M: it is very difficult to —to see	3142		
S-INTERVM S-OSTORYF S-EM S-NCLO S-REFRAME S-MI			
C: the reason that I—I think that I am	3144	-S	
also interested in the same question	3145	-S	
and not so much what not that do you	3146		
wanna move if that's the solution for	3147		
mediation or for—for down the road.	3148		
but you yourself with your daughter.	3149		
Are you happy in this apartment? Would	3150		
you like to stay there and find a way	3151		
to work things out?	3152	-S	
S-EM S-OSTORYN S-XTERN			
M: (Simultaneously) oh, we're not	3154	-S	
happy. Definitely we're not happy in	3155		
the apartment.	3156	-S	
!-ESTORYN			
P: You're not?	3158		
S-ESTORYF			
C: And so what would it take to make	3160	-S	
you happy?	3161	-S	
!-ECM			
M: Uh huh.	3163		
S-MI S-ESTORYF S-NCLO S-MRA S-XTERN			
C: What would it take to make that	3165	-S	
place feel like your home again: to	3166		
make it your home so that you can be	3167		
there with your daughter, so she can	3168		
watch the cartoons, so you can get	3169		
your studying done? What would it	3170		
take for you to feel like you are	3171		
staying there?	3172	-S	
S-L S-OSTORYF S-DCSTORYN S-NEGCONO S-NEGCONN			
M: That I can go home (laughs) I don't	3174	-S	
need to hear this neighbor banging on	3175		
my walls and my daughter can watch	3176		
cartoons, whatever she feels	3177		
(laughs) like.	3178	-S	

NRS
#7

C: yeah (sounding pained)	3301	!		
\$-DCSTORYP				
M: it's like I don't see anybody	3303			-\$
because I don't know her.	3304			-\$
!-ECP				
C: Yeah	3306	!		
\$-RC \$-ID \$-ECM \$-RSTORYN				
M: I told you I'm not even sure if I	3308			-\$
think—I think that is like a pretty	3309			
heavy woman, you know what I mean?	3310			
She's Caucasian. I think that's the	3311			
one. I'm assuming.	3312			-\$
\$-MRE \$-ECP				
C: Uh hmm. But you don't even know	3314			-\$
her.	3315			-\$
!-DCSTORYN				
M: I don't even	3317	!		
!-REFRAME !-MRE \$-DCSTORYN !-PR !-DCSTORYN				
C: that's part of the problem M: uh,	3319			-\$
hmm	3320			-\$
!-ECP \$-ECM %-PD ~-CURB				
C: Yeah, okay. (To P.) Anything else,	3322	!		-\$ -% ~
P?	3323	!		-\$ -% ~
\$-INTERVM \$-TRUST \$-DST \$-L \$-DEC \$-SILENCE				
\$-MDRULES				
P: Hmm. Yeah. Ummm, what parts of	3325			-\$
what we talked about till now umm	3326			
would you like to ask to share with G?	3327			
(Long pause). Or are there parts	3328			
that you don't want to share?	3329			
(Laughs).	3330			-\$
\$-DST \$-OSTORYP \$-CSTORYP \$-MDRULES				
M: No, you can share everything. I	3332			-\$ -%
think she knows how I feel because I	3333			
went to her office and explained to	3334			
her about this neighbor	3335	-#		-\$
!-ECP				
C: uh hmm	3337	!		
!-ESTORYP !-ECSTORYP				
P: oh, so she knows about the neighbor?	3339	!		

NRS
#4

#-CSTORYP #-OSTORYP

M: Oh, yeah she knows about the	3343	-#
neighbor because supposedly she have	3344	
complained.	3345	-#

!-ECP

C: Uh hmm.	3347	!
------------	------	---

#-OSTORYP #-VIC #-EAV #-STORYTA #RUSTORYP

M: But then I complained once and that	3349	-#
was after she called me the cops.	3350	-#

#-ECP

P: (Simultaneously) Ahh, we'll call you 3499 -#
back again 3500 -#

#-ECP

C: (Simultaneously) Sure, if you want 3502 -#
you can leave it there. No problem. 3503 -#

+Mediators' Caucus: P and C present 3505

!-NV-P !-ECP

+P, C, G: in hall, unintelligible 3507 !

#-ECP #-TRUST #-PD #DEC #-MDRULES

P: We're gonna caucus for two minutes 3509 -#
do you wanna wait? 3510 -#

!-L

P: So (laughs) 3512 !

#-EAV #-ECM

C: Okay, okay (speaking slowly and with 3514 -#
emphasis) 3515 -#

+Leah changes videotape, then leaves 3517

+Present: P and C 3519

!-NEGCONS !-PD !-NEGCONC !-MDRULES

C: I'm not good at watching the clock. 3521 !

#-RSTORYN #-EM #-ID #-PD

P: No, but she needed to explain; 3523 -#
English is not her first language and 3524 |
I—there were parts in which I was 3525 |
confused what she was saying. And 3526 |
like I needed to clarify things that I 3527 |
wasn't sure. 3528 -#

NRS
#5

#-PD #-REFRAME

C: (simultaneously) she needed to just 3530 -#
talk 3531 -#

#-MS #-BMS #-REFRAME

P: I mean, it seems that there is this 3533 -#
issue with the neighbor is really a 3534 |
main concern here ahhh and that's what 3535 |
lead to involving the administration. 3536 |
Ahhh 3537 -#

#-MS #-NCLOPE #-REF

C: Well, whether that did or not and M. 3539 -#
was just suspecting that that was 3540 |

true, there's clearly an issue with this neighbor.	3541	
	3542 -#	
!-ECM		
P: Yeah.	3544 !	
!-EAV		
C: I mean, clearly, clearly.	3546 !	
#-EM #-MI #DCSTORYN		
P: But then she—if she's—I mean the context is the other thing that worries me	3548 -#	
	3549	
	3550 -#	
!-ECM #-MS #-ID #DCSTORY		
C: hmm P: she is , as she said, in the middle of elderly people.	3552 !-#	
	3553 -#	
!-ECM		
C: Ah huh.	3555 !	
!-MI #-MS #-ID #-EAV #-MRA ~-DCSTORY		
P: And, I'm not sure that, you know, an undergraduate student, young, with a child it's—you know, this is the best place for her and for them.	3557 -# ~	
	3558	
	3559	
	3560 -#	
!-ECM		
C: Right.	3562 !	
!-ID #-RSTORYN #-MS #DCSTORY		
P: Ahh, and then she's the only ahh person of color, single mother	3564 -#	
	3565 -# ~	
!-ECM		
C: right	3567 !	
#-MI #-PD #-SILENCE ~-MDRULES		
P: she said, in this place. Which is another concern. Umm, so I mean, I guess (pause) those are issues that we should address (voice trails off).	3569 -# ~	
	3570	
	3571	
	3572 -# ~	
#-MI #-PD #-REFRAME #-RSTORYF *-RUSTORYF ^RUSTORYP #-MDRULES		
C: (begins simultaneously) those are	3574 -# ~ -*	
all—I think those are all really	3575	
important issues umm and the—I think	3576	
and we can talk when we talk to M.	3577 ~ -*	
again maybe come back to it, I think	3578 ^	
what she was saying about the	3579	
discrimination issue I think what she	3580	
was saying was, that whoever is	3581 ^	

NRS
#5.5

responsible for housing is afraid	3582			} <div>NRS #5.5</div>
they'll be accused of discrimination	3583			
if they boot her out.	3584	-#	-^	
!-ECM				
P: Yup.	3586	!		
#-PD \$-MI \$-RUSTORYN				
C: Umm, it wasn't clear to me	3588	-#	-\$	
if—how—you know—if there are any	3589			
other options for her. If this is the	3590			
housing that she's been given and	3591			
that's—you know and she's got this	3592			
lease for the next year and umm all	3593			
those feelings. So, all of that stuff	3594			
we have to clarify	3595		-\$	
!-MI				
P: We need—yeah	3597	!		
!-ECM				
C: yeah	3599	!		
!-MI				
P: we need to check on that.	3601	!-#		
#-REFRAME #-MI #-ID #-DCSTORYN				
C: Or whether M. chose—you know she	3603	-#		
was looking for apartments this is the	3604			
one she chose and it happens that	3605			
there are a lot of elderly people and she's	3606			
pretty isolated there. Umm	3607			
(voice trails off)	3608	-#		
#-MI #-ID				
P: This is an apartment complex you	3610	-#		
know where students live	3611	-#		
#-MI				
C: (simultaneously) right, right so	3613	-#		
is—is she on one end?	3614	-#		
#-MI #-RUSTORYP				
P: so I don't know if she was put	3616	-#		
there	3617	-#		
#-PD \$-INTERVM \$-MI \$-DST \$-TRUST #-MDRULES				
C: So, I was thinking, when we talk to	3619m	-#	-\$	
G., umm, there's some of this stuff	3620			
that we can reflect back but maybe in	3621			
this first session with G., we should	3622			
set this aside	3623	-#	-\$	

!-ECM	!-TRUST	#-MDRULES	
P: Yup			3625 ! -#
!-TRUST	!-MI	!-INTERVM	#-MDRULES
C: M.'s story, everything that she said			3627 ! -#
!-TRUST		#-MDRULES	
P: (simultaneously) and let's see			3630 ! -#
\$-TRUST	\$-INTERVM	#-MDRULES	
C: and hear as much as we can from G.			3632 -# -\$
And not introduce anything in this			3633 -# -\$
first session about the neighbor or			3634 -# -\$
anything. Does that make sense?			3635 -# -\$
!-TRUST	!-ECM	#-MDRULES	
P: Sure.			3637 ! -#

!-ECM

R: Okay. 5163 !

#-MS #-DCSTORY

P: She doesn't want them to think so 5165 -#
negatively of her. 5166 -#

!-ECM #-DCSTORY

R: Uh hmm, uh hmm. 5168 !-#

#-JTS #-DCSTORY

P: Now, ahh there is problem with the 5170 -#
neighbor whose—with whom she shares 5171 -#
some walls, 5172 -#

#-JTS !-ECM

R: (simultaneously) uh hmm P: or a 5174 !-#
wall. Ahh this is Meadowlark 5175 -#

!-ECM

R: (simultaneously) uh hmm 5177 !

#-L #-MS #-EXTERN

P: and, you know, these (laughing) are 5179 -#
very thin 5180 -#

!-ECM

R: (simultaneously) uh hmm, uh hmm. 5182 !

!-MS !-ID

P: She's has a—she is a single mother 5184 !

!-ECM

R: Uh hm. 5187 !

#-RSTORYN #-MS #-EAV ^-DCSTORYN

P: She is—she—what she says is that 5189 -# -^
she is the only ahh Latina in that 5190 -# |
area 5191 -# |

!-ECM

R: uh hmm. 5193 ! |

#-ID #-MS

P: and she's a single mother, she has a 5195 -# |
three-year-old. And she's a student. 5196 -# |

!-ECM

R: Uh hmm. 5198 ! |

#-ID #-MS #-RSTORYN

NRS
#6

P: It seems that the other people are
elder—elderly white people.

5200 -# |
5201 -# |

NRS
#6

!-ECM

R: Uh hmm.

5203 ! |

#-JTS

P: So, there is this neighbor who
complains

5205 -# |
5206 -# |

!-ECM

R: uh hmm.

5208 ! -^

#-DJTS #-MDRULES

P: I mean at the level of cl—both want
clarification at some levels. 5611 -#
5612 -#

!-ECM #-MDRULES

R: (simultaneously) Uh hmm. 5614 ! -#

#-PD #-MDRULES

P: So that we'll clarify for her. Ahh,
then we'll need to talk to G. about 5616 -#
5617 -#

!-PD #-MDRULES

C: (simultaneously) well we can ask 5619 ! -#

#-PD #-MS #-MDRULES

P: intervening with the neighbor, I
guess 5621 -#
5622 -#

#-PD #-MI #-MDRULES

C: Well we can—we can maybe talk 5624 -#
it—they're not—I don't think they're 5625 -#
too far away from being brought back 5626 -#
in the same room together. 5627 -#

#-ECM #-INTERVC #-DST #-T ^-PD #-MDRULES

R: (simultaneously) uh hmm, uh hmm. Now 5629 -# -^
why would you need to talk to M. 5630 | |
separately instead of having them both 5631 | |
come in together to share what each 5632 | |
other said? 5633 -# |

!-SILENCE #-MDRULES

PAUSE: pregnant 5635 !-#

#-MS #-SILENCE #-NCLOPE \$-RSTORYN SID @DST #-MDRULES

P: Because (pause) M., I mean because 5637m -# -\$ | -@ |
the issue of (small pause) umm age and 5638 | | | |
ahh ethnicity was brought up 5639 -# | | | |

!-ECM #-MDRULES

R: uh hmm, uh hmm 5641 !-# | | | |

!-NCLOPE #-MDRULES

P: ahh, by M. 5643 !-# | | | |

!-ECM #-MDRULES

R: uh hmm 5645 !-# | | | |

!-NCLOPE #-MDRULES

P: only, I mean in—in the conversation 5647 !-# | | | |

!-ECM #-MDRULES

NRS
#7

R: (simultaneously) right, right	5650	!-#					
#-NCLOPE #-MDRULES							
P: with her. I mean the three of us	5652	-#					
talked about it.	5653	-#					
!-ECM #-MDRULES							
R: (simultaneously) Uh hmm	5655	!-#					
!-NCLOPE #-MDRULES							
P: It's not just her.	5657	!-#					
!-ECM #-MDRULES							
R: Uh hmm.	5659	!-#					
!-EAV !-NCLOPE #-MDRULES							
P: It was brought up only with her.	5661	!-#					
!-ECM #-MDRULES							
R: (simultaneously) Uh hmm.	5663	!-#					
#-L #-NCLOPE *-MI #-MDRULES ^-PR							
P: So, I'm not so sure yet (laughs a	5665	-#			-*		-^
little) like how comfortable	5666	-#					
!-ECM #-MDRULES							
R: (simultaneously) Uh hmm	5668	!					
#-EAV #-NCLOPE #-MDRULES							
P: she's going to feel about not saying	5670	-#					
anything	5671	-#					
!-ECM #-MDRULES							
R: (simultaneously) Uh hmm	5673	!					
!-NCLOPE #-MDRULES							
P. with regard to that	5675	!		-\$		-*	-^
!-ECM #-MDRULES							
R: Uh hmm.	5677	!					
#-EAV #-NCLOPE #-MDRULES #-MI							
P: I mean I would like to convey the	5679m	-#					
message	5680	-#					
!-ECM #-MDRULES #-CSTORY							
R: (simultaneously) Uh hmm	5682	!					
#-EAV #-NCLOPE #-MDRULES #-MI #-GS							
P: that she's been in a very positive	5684	-#					
light by the manager (Voice sounds	5685	-#					
insistent or maybe even a little	5686	-#					
irritated—emphatic)	5687	-#					

NRS
#7

!-ECM #MDRULES					
C: (simultaneously) right, right	5689	!			
!-ECM #MDRULES					
R: uh hmm.	5691	!			
!-MI !-NCLOPE #MDRULES					
P: before having them together	5693	!			
!-ECM #MDRULES					
R: Okay. Wh—	5695	!			
!-CURB !-NCLOPE #MDRULES					
P: (simultaneously) Because actually	5697	!			
!-ECM #MDRULES					
R: (simultaneously) right	5699	!			
#-NCLOPE #MDRULES					
P: the manager has not said any of this	5701	-#			
to her.	5702	-#			
!-ECM #MDRULES					
R: (simultaneously) Okay, hmm.	5704	!			
!-ECM !-NCLOPE #MDRULES ^-DCSTORYN					
C: Right, we asked her.	5706	!			-^
#-MI #NCLOPE #MDRULES					
P: (simultaneously) And I think it is	5708	-#			
important in addressing that part.	5709	-#			
!-ECM #MDRULES					
R: (simultaneously) Okay, okay.	5711	!			
#-MI #MDRULES					
P: That doesn't mean that the context	5713	-#			
in which she lives is s problem.	5714	-#			-^
!-ECM #MDRULES					
R: Right, right.	5716	!			
!-MI #MDRULES					
P: Umm, but that would be my	5718	!			
!-MI #MDRULES					
R: (simultaneously) yeah	5720	!			
#-MI #-ECC #-MAI #MDRULES					
P: reason. I don't know do you have	5722	-#			
any suggestions?	5723	-#		-@	
#-T #NOCON #LS #INTERVC #CCI #NCLO #MDRULES					
R: (simultaneous to the end of P.'s	5725m-	#			

words) I also want to—just want you to	5726			
be aware of airtime. How much you've	5727			
given each one in private caucuses.	5728			
Have you been aware of how much time	5729			
M's gotten versus G.? And if you	5730			
bring M. back again is that more time?	5731	-#		
 #-INTERVM #-ID #-RSTORYN #-NCLOPE #-MDRULES				
P: (simultaneously to R.'s ending words)	5734	-#		
Well, the problem is that M.	5735	-#		
 !-SILENCE #-MDRULES				
PAUSE:	5737	!		
 !-ECC !-NCLO #-MDRULES				
C: but that's right	5739	!		
 #-ID #-RSTORYN #-INTERVM !-NCLOPE #-MDRULES				
P: it's that M.'s ahh first language is	5741	-#		
not English.	5742	-#		
 !-ECM #-MDRULES				
R: (simultaneously) hmm	5744	!		
 #-L #-NCLOPE #-MDRULES				
P: And (laughs) a—we have to clarify a	5746	-#		
lot! With her. Several things she	5747	-#		
was talking about.	5748	-#		
 !-ECM #-MDRULES				
R: (simultaneously) Uh hmm.	5750	!		
 #-CHAR+G #-NCLOPE #-MDRULES				
P: So that took time. G. was, you	5752	-#		
know, very clear and articulate.	5753	-#		
 !-ECM #-MDRULES				
R: (simultaneously) uh hmm, uh hmm	5755	!		
 #-CHAR+G #-NCLOPE #-MDRULES				
P: You know, it's like, all th—that's	5757	-#		
why it has—it took less time.	5758	-#		
 !-ECM #-MDRULES				
R: (simultaneously) uh hmm	5760	!		
 !-ECC !-BRS #-MDRULES				
P: Absolutely. I'm aware of that	5762	!		
 #-INTERVC #-T #-CCI #-NCLO #-BLS #-MDRULES				
R: (simultaneous to the end of P.'s	5764	-#		
sentence) So, to be aware of that so	5765	-#		
if you are continuing	5766	-#		

NRS
#8

!-L !-NV-R #-MDRULES

+P sighs loudly, simultaneously 5768 !| | |

!-L #-MDRULES

+P then laughs 5770 !| | |

!- INTERVC !-BLS !-CLO #-MDRULES

R: to build a difference 5772 !| | |

P: (simultaneously says something 5774 | |
unintelligible) 5775 | |

#-NCLO #CCI #-ECM #-BLS #-MDRULES

R: is it better for them to be together 5777 -# | |
as you do this, versus needing—you 5778 -# | |
see what I mean? 5779 -# | |

!-MAI !-ECC !-BLS !-ACK #-MDRULES

P: Yeah, I see what you mean. Is it 5781 !| | |

#-INTERVC #-CURB #-NV-P #-NCLO #-CCI #-MDRULES

R: (simultaneously) Or what—what's 5783 -# | |
(knocks on table once)—what's needed 5784 | |
(knocks on table four times)—what's 5785 | |
most needed now (knocks on table once 5786 | |
in sync with "now")? As we move on? 5787 -# | |

#-BPS #-ECM #-NCLOPE #-MDRULES

C: I think what's most—I agree with 5789 -# | |
P.—what's—I think—what's most 5790 | |
needed now is to have another 5791 | |
conversation with M. 5792 -# | |

!-ECM #-MDRULES

R: Uh hmm. 5794 !| | |

!-EJTS !-BRS #-MDRULES

P: A short one. 5796 !| | |

!-ECM #-MDRULES

R: Uh hmm. 5798 !| | |

#-EJTS #-SUM #-BRS #-NCOH #-MDRULES

C: (simultaneously) a short one and we can 5800 -# | |
say that. We'll set the—and that 5801 | |
what you're trying to tell us is we 5802 | |
need to be careful about how we're 5803 | |

#-EAV #-L #-DCSTORY

M: (simultaneously) It's a major problem. (Laughs) 7686 -#
7687 -#

!-L #-DCSTORY

P: Yes. (Laughs). 7689 !-#

#-EAV #-SUM #-DCSTORY

P: This is a major thing and (unintelligible comment) 7691 -#
7692 -#

#-ECP #-DCSTORY

P: (simultaneously) I hearing you about that. 7694 -#
7695 -#

#-ECM #-EAV #-NEGCONO #-NEGCONN #-OSTORYP #-RUSTORYP
#-DCSTORY

M: And that I assume that she was the one who called and made up all these facts. You know? 7697 -#
7698 -#
7699 -#

#-OSTORYF #-INTERVM

P: So, you want to address this in a mediation with her? 7701 -#
7702 -#

!-OSTORYF

M: Uh hmm. 7704 !

#-CI \$-SILENCE %-MI @INTERVM @ID @-MRA
@-MRE @-PR @DCSTORYN ^-RSTORYP

P: Okay. Ahh, now there is a question I wanted to explore with both of you. Ahh, which is (small pause) umm, the 7706m -# -\$ -% -@ -^
7707 | | | | |
7708 | | | | |

*-ECP

setting in which this is happening. It is my understanding, and correct me if I'm wrong, that ahh, M. is living in umm—surrounded by ahh neighbors who 7709 | -\$ | -* | |
7710 | | | | |
7711 | | | | |
7712 | | | | |

\$-RC

are elderly people and ahh, elderly white people. And she's a single 7713 | -\$ | | | |
7714 | -\$ -% -* | |

*-MI ~-RC

mother, young, student, umm, and she's 7715 | | -* | | ~

\$-SILENCE \$-EAV \$-XTERN \$-ESTORYF %-ECP %-OSTORYN

a Latina. Umm, (small pause) I'm wondering if this is the best location for someone, you know, who has a family. Ahh, in Meadowlark. And this 7716 | -\$ -% | | -^ ~
7717 | | | | |
7718 | | | | |
7719 | -\$ | | |

NRS
#9

is a question for both of you. Ahh,	7720				
in terms of	7721		-%	-*	-@
!-EAV \$-L \$-RC \$-PD \$-RSTORYN					
M: (simultaneously to P.'s last	7723	!	-\$		
sentence) I have to say that I didn't	7724				
approach the subject that I was	7725				
Latina. (Laughs)	7726		-\$		
P: Umm.	7728				
\$-L \$-DEN \$-NCLO \$-ID \$-POSCONS \$-POSCONM					
\$-EAV \$-ECP \$-DCSTORYN					
M: yeah (laughs). But I jus—I jus let	7730		-\$		
them that I was living surrounded by	7731				
elderly people. Yes. That I'm trying	7732				
not to like bother them. But	7733		-\$		
\$-OSTORYP \$-DEN *-REF *-NCLO \$-ECP					
G: M., I been the property manager at	7735		-\$	-*	
Meadowlark since um, the beginning of	7736				
%-EAV ^-RUSTORYN					
May of just this year. And I don't	7737			-%	
know who lives where. I don't—you	7738			-%	^
know, when I—when we moved you	7739				^
^-RUSTORYN					
there—I have no—we must approach	7740		-\$	-%	^
everybody—we have a one bedroom and	7741				
you are next on our list?	7742		-%	-*	
!-EAV !-ECP					
M: (simultaneously) Uh hmm!	7744	!			
!-EAV !-NCLO					
G: Then you get it!	7746	!			
!-ECP					
C: (simultaneously) Uh hmm, uh hmm.	7748	!			
!-ECP					
M: (simultaneously) Uh hmm.	7750	!			
%-OSTORYN %-DEN %-ID					
G: It would never occur to me that	7752		-%		
elderly were in an area or anything.	7753		-%		
\$-ID \$-L \$-OSTORYN %-RSTORYN %-EAV					
M: It does! It's like that (slight	7754		-\$	-%	
laughing sound in voice) I	7755		-\$	-%	
(unintelligible comment)	7756		-\$	-%	^
\$-CHAR+G \$-OSTORYF \$-DEN \$-EAV \$-RSTORYF					

NRS
#9

NRS
#10

G: So, I won't do that! I won't	7758		-\$	
participate in that! And therefore,	7759		-\$	
!-CHAR+G !-ACK !-ECP !-JTS !-RSTORYP !-BGS				
M: That's what I've told them!	7761	!		
!-ECP				
C: (simultaneously) uh hmm.	7763	!		
!-OSTORYN !RSTORYN				
M: Like I know that it's like—it's	7765	!		
!-INTERVM !-EAV !-CURB !-MDRULES				
P: 'Cuse me! Umm,	7767	!		
!-ECM !-MDRULES				
M: Sorry.	7769	!		
S-ECP S-INTERVM S-ESTORYN S-MDRULES				
P: hold on a second 'cus I want you to	7771		-\$	
finish your	7772		-\$	
!-ECP !-MDRULES				
M: Yeah.	7774	!		
S-L S-INTERVM S-ESTORYN S-MDRULES				
P: thought. (Slight laughing sound in	7776		-\$	
voice) And then, you go—you can	7777		-\$	
ahead.	7778		-\$	
S-CHAR+G %-EVF %-ID %-NCLO %-XTERN %-RUSTORYN				
G: If there are, you know, I will not	7780m		-\$	-%
behave in that manner. Anybody	7781			
in—anybody can live anywhere as long	7782			
as they fulfill our policies. You had	7783		-\$	
two people in your household they	7784			
could live—you could live with your	7785			
roommate. A student, another adult.	7786			
You qualified for a one bedroom. You	7787			
can be with your child. You qualified	7788			
for a one bedroom. Therefore you	7789			
qualify for that. Those are	7790			-%
!-ECP				
M: (simultaneously) uh hmm	7792	!		
!-XTERN !-ID !-RSTORYN !-NCLO !-RUSTORYN				
!-OSTORYN				
G: federal fair housing laws	7794	!		
!-ECP				
M: (simultaneously) uh hmm	7796	!		

NRS
#10

NRS
#11

\$-SILENCE	\$-EAV	\$-ECP	\$-RSTORYP	\$-OSTORYP	\$-ID
\$-XTERN	\$-REFRAME	~-RUSTORYP	\$-RSTORYF		^-RUSTORYF

G: and they changed a long time ago and	7798		-\$	~
those elderly people who live there	7799			^
are going to have to get along with	7800			
you and your daughter. Or, (small	7801			
pause) they can move!	7802		-\$	^

!-ECP !-RUSTORYF

M: (simultaneously) Yeah.	7804	!	
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!-ECP !-REFRAME !-OSTORYF !-EAV !-RUSTORYF

G: More than you can move.	7806	!	
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\$-JTS \$-ID \$-RSTORYF \$-EAV \$-RUSTORYF

M: Uh hmm. That's—that's what I've	7808m		-\$
told them. Like, that at some point	7809		
that's gonna be like discrimination,	7810		
you know what I mean? If—if	7811		
they—if that's the way it's—it's	7812		
gonna work out.	7813		-\$

\$-ECP \$-CHAR+M

C: Uh hmm. M: And I don't wanna	7815		-\$
feel—like I'm the type a person that	7816		
I'm even not gonna consider myself a	7817		
victim, you know what I mean?	7818		-\$

!-BMS !-ACK !-JTS

G: Don't be!	7820	!	
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!-BMS !-JTS

M: Exactly!	7822	!	
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!-ECP

C: (simultaneously) uh hmm	7824	!	
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\$-JTS \$-ID \$-OSTORYN \$-NCLOPE \$RUSTORYN
\$-SILENCE \$-RSTORYN

M: So, that's—that's why I tried to	7826		-\$
tell them, you know. (Small pause)	7827		-\$

%-EAV %-DCSTORYN \$RUSTORYN

It's hard to believe but I walked	7828			-%
around the other elderlies are in one	7829			
spot and families are in another spot!	7830		-\$	-%

!-RUSTORYN

C: (simultaneously) uh hmm	7833	!	
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\$-ID \$-OSTORYN \$-NCLOPE \$-DCSTORYN \$-RUSTORYN

M: You know, this is amazing! But	7835		-\$
it—it is very segregated	7836		-\$

NRS
#11

NRS
#11.5

!-ECP

C: Uh hmm, uh.

7838c

\$-NCLO \$-EVF \$-XTERN \$-REFRAME \$-JTS
\$-BGS \$-RUSTORYP

P: Well, assuming that it happened to 7840 | -\$
 be like that because this is like ahh. 7841 | -\$
 the wa—there is a waiting list 7842 | -\$

!-EAV !-ECM

M: (simultaneously) uh hmm! 7844 ! |

\$-ID \$-JTS \$-BGS \$-RUSTORYP

P: and whoever's there, gets there. 7846 | -\$
 (unintelligible comments) 7847 | -\$

\$-ID \$-OSTORYP \$-NCLOPE \$-RUSTORYP

M: (simultaneously) Umm! And I—and 7849 | -\$
 I—when I was placed there I never 7850 | |
 thought that, you know, it was—it was 7851 | |

%-EAV %-OSTORYN %-RUSTORYP

gonna be a problem. But then when you live 7852 | | -%
there that's another story! 7853 | -\$ -%

\$-EAV \$-XTERN \$-REFRAME \$-RUSTORYP \$-JTS \$-BGS
\$-ACK %-L

P: (simultaneously) story. I'm 7855 | -\$ -%
 wondering if umm, any of you, knowing 7856 | | |
 that this is not a choice, it have not 7857 | -\$ |
 been chosen by any of you (laughs) and 7858 | | |
 as I said, this is the setting. It's 7859 | | -%

%-DEC *-ESTORYF *-NCLO *-MI *-INTERVM *-EAV

just the way it is right now. Umm. I 7860 | | -% -*
just wanna ask you if you have any 7861 | | | |
ideas about what you wanna do about 7862 | | | |
this? I mean, yeah, this is the 7863 | | | |
setting, I, you know, I just wanna 7864 | | | |
know would you like to umm, keep it 7865 | | | |
the way it is and go through the 7866 | | | |
mediation with this other person and 7867 | | | |
see what happens? Would you like to 7868 | | | |
consider other options? I don't know 7869 | | | |

\$-L

if there are other options! Ahh, but 7870 | -\$ | | |
I—basically what I want to do is like 7871 | | | | |
open it up to see if you have any 7872 | | | | |
thoughts or alternatives? To address 7873 | | -% | |
the setting. (Laughing a little in 7874 | | | | |
voice) 7875 | -\$ | | -*

NRS
#11.5

!-XTERN !-RUSTORYN

G: (simultaneously) We have policies 7877 ! |

!-ECP

P: Sorry. 7879 ! |

!-RUSTORYN \$-RUSTORYF \$-PD

G: Ahh, we have policies. So, I can 7881 ! | -\$
 tell you some of the policies. 7882 ! -# -\$

#-MS #-GS #-CSTORYN #-EJTS #-MRA #-CI

C: Clearly this is a whole other issue	8447m	-#		-*
but it continues to bring you together	8448			
on some similar issues: noise level,	8449			
community living, umm, relationships	8450			
among tenants	8451	-#		

#-ID #-EAV #-EM #-OSTORYN #-XTERN #-NCLOPE

M: You don't understand like, this have	8453m	-#		
ev—have like affected me so much that	8454			
I'm like, I don't know if you know	8455			
that I am the gover—governor of the	8456			
commuter area government here in the	8457			
university?	8458	-#		

!-ECP

G: You are?	8460	!
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#-STORYTA #-XTERN #-OSTORYN #-CSTORYN #-L #-EM
#-NCLOPE

M: Yeah. I've been like talking to my	8462	-#		
committee a lot. Giving some like	8463			
workshops (voice has sound of	8464			
laughter) of good neighboring in my	8465			
community! It's like, that's at the	8466			
extreme that this have affected me.	8467	-#		

!-ECP

C: (simultaneously) Uh hmm.	8469	!		
-----------------------------	------	---	--	--

%-CSTORYP ^-NCLOPE ^-EAV #-RUSTORYP

M: I'm like, because then I started	8471	-#	-%		-^
thinking and I have talked to other	8472				
people and then I've like, "So, where I	8473				

\$-EM \$-RSTORYN \$-DCSTORYN

live is the same situation!" I'm	8474		-\$			
like, well sometimes, you know that	8475					
sometimes, it's—it's like hard to say	8476					
it. But sometimes that's	8477					
discrimination!	8478	-#	-\$	-%		-^

!-ECP

C: Uh hmm.	8480	!		
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#-EM #-NCLOPE #-DCSTORYN #-RSTORYN #-RUSTORYN

M: You know, it's very difficult for me	8482	-#		
to say it.	8483	-#		

!-ECP

C: uh hmm.	8485	!		
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NRS
#12

#-DCSTORYN	#-VIC	#-NDEP	#-XTERN	#-RSTORYN	\$-NCLOPE
M: Because I don't like to be a victim.				8487	-# -\$
!-EAV !-EM !-ECM					
I hate it! But it is. You know? It's				8488	!
%-CSTORYF %-STORYA %-L %-CSTORY					~-REFRAME
a reality, you know? And I'm like,				8489	-# -%
"we need to do something." You know?				8490	
We have to teach them (laughs) how to				8491	
be a good neighbor! (Laughs) Or we				8492	~
have to teach each other how to be a				8493	~
#-EAV ~-REFRAME					
good neighbor. Why can't we offer				8494	-#
like a workshop? This is ho—until				8495	-#
that extent				8496	-\$ -%
!-ECP					
C: (simultaneously) Uh hmm				8498	!
#-EM #-XTERN #-VIC #-NCLOPE					#-RSTORYP
M: I been like, this whole stuff have				8500	-#
been like affected me.				8501	-#
!-ECP					
C: Uh hmm.				8503	!
!-ECP !-EM !-BMS !-ACK					
P: It see—it seems very stressful.				8505	!
!-VAL !-EAV					
M: (simultaneously) It is!				8507	!
#-CURB #-NCLO #-MRE #-OSTORYF					#-L #-PD #-MI
P: And hopefully—hopefully this other				8509	-#
mediation will address, you know,				8510	
these issues with that person in				8511	
\$-EAV					
particular. you know, since she's the				8512	-\$
one (laughing sound in voice) who's				8513	
umm, you know, been involved in this				8514	
con—with this conflict. So, you				8515	
%-BRS %-MDRULES					
know, do raise it there. 'Cus it is				8516	-\$ -%
very important. Umm, in the interests				8517	
of time (laughs) already.				8518	-# -%
!-ECM !-MDRULES					
M: Yeah.				8520	!

NRS
#12

#-PD #-EAD #-INTERVM #-MDRULES

P: Umm, I just wanted to read to you, 8522 -# |
 ahh, what are—my notes about what 8523 -# |
 you agreed 8524 -# |

!-ECM !-MDRULES

M: (simultaneously) uh hmm 8526 ! |

!-EAD !-PD !-MDRULES

P: to see if we can ahh write it down. 8528 ! -*

!-ECM !-MDRULES

G: Uh hmm. 8888 !

#-PD #-MDRULES

P: And umm, we—were gonna give you a 8890 -#
copy so that 8891 -#

!-ECM !-MDRULES

G: (simultaneously) okay 8893 !

!-PD !-MDRULES

P: you both can keep a copy 8895 !

#-PD #-MDRULES #-DEC #-MAI #-NV-P

C: Right. Right. We can also—it's 8897 -#
time to bring—we can bring R. in just 8898 |
to—to—while you're writing this up 8899 |
umm and are there—what else? Ahh 8900 |
anything else that we haven't covered 8901 |
(sighs) or ahh? 8902 -#

!-PD

M: I think that's about it. 8904 !

!-SILENCE !-MDRULES

PAUSE: small 8906 !

#-PD #-MAI

C: Yeah? Okay. Shall I go get R? (To 8908 -#
P.) Did you want me to write this? 8909 -#

!-PD

P: I'll just do it while 8911 !

#-PD #-ECM

C: You probably can read your 8913 -#
handwriting better than I can read 8914 |
your handwriting. 8915 -# |

!-L

+Everyone laughs 8917 !

#-ECP

P: Okay, ahh, so M., what is your last 8919 -#
name? 8920 -#

+C leaves the room 8922

+Present in the room: P, G, and M 8924

M: _____ (starts to spell her last 8926
name) 8927

!-ECP

P: (simultaneously) M., the way you 8929 !

M: (simultaneously says her full name) 8931

!-ECP

P: spell it right? 8933 !

#-ECM

M: Yeah. _____ (spells out her first 8935 -#
name). 8936 -#

!-SILENCE

PAUSE: 8938 !

M: _____ (spells out her last name) 8940

!-SILENCE

PAUSE: small 8942 !

!-ECP

P: And G.? 8944 !

#-L #-ECP #-ECM

M: _____ (says G.'s lasts name and then 8946m -#
spells out the rest of G.'s last name) 8947 |
_____ (laughs a little) 8948 -#

#-ECP #-ESTORYN #-ECSTORYN

G: M., how—how is all the other 8950 -#
residents down there? Are they 8951 -#
pretty—they're a good team? 8952 -#

#-RSTORYN #-DCSTORYN

M: Yeah, they like I myself was telling 8954 -#
them like if I see them outside I 8955 |

\$-ECP

can—actually not. I just talk to 8956 | -\$
like my next door neighbor, _____ is 8957 | |
her name? I'm not sure. 8958 -# -\$

!-ECP

G: Uh hmm. 8960 !

#-CSTORYN #-DCSTORYN #-RSTORYN

M: And _____ (man's name). Like when 8962 -#
I see them in the parking lot or umm 8963 |
whenever, we talk. I don't know 8964 |
anybody. 8965 -#

!-ECP

G: Uh hmm. 8967 !

#-BS #-L #-DCSTORYN

NRS
#13

M: Like I've—I'm never there, you	8969	-#
know, like I get there around	8970	
six-thirty (laughs a little)	8971	-#
!-ECP		
G: Uh hmm.	8973	!
!-BS !-STORYTA !-DCSTORYN		
M: because at five I'm done working.	8975	!
!-ECP		
G: Uh hmm.	8977	!
#-STORYTA #-DCSTORYN #-BS		
M: Then I go and get _____. (daughter's	8979	-#
name)	8980	-#
!-ECP		
G: Uh hmm.	8982	!
#-STORYTA #-DCSTORYN #-BS		
M: Then if I have to stop downtown to	8984	-#
get milk I go there.	8985	-#
!-ECP		
G: Uh hmm.	8987	!
#-DCSTORYN #-BS		
M: And then I go home. And by that	8989	-#
time it's six-thirty, you know	8990	-#
!-ECP		
G: (simultaneously) Umm.	8992	!
!-DCSTORYN !-BS		
M: So, I never get to see anyone.	8994	!
+Door opens, C and R enter the room	8996	
+Present in the room: M, G, P, C, and R	8998	
#-JTS #-DCSTORYN #-XTERN #-REFRAME #NCLO		
G: Yeah, especially mo—more so in the	9000	-#
winter, too. People don't come out as	9001	
much.	9002	-#
#-BS #-JTS #-DCSTORYN		
M: (simultaneously with the end of G.'s	9004	-#
sentence) Yeah. And I really don't	9005	
like to be out. I'm like more a house	9006	-#
person	9007	-#
#-ECP		

G: (simultaneously with the end of M.'s	9009	-#
sentence) uh hmm	9010	-#
#-BS #-L #-ECP		
M: You know? I guess that's the	9012	-#
problem here. (Laughs) I'm always in.	9013	-#
#-NOCON #-ID #-AD #-PD #-INTERVC #-MDRULES		
R: So, as the coordinator I need to	9016	-#
sigh off on your agreement to—just to	9017	-#
say	9018	-#
!-ECC !-MDRULES		
G: (simultaneously) okay	9020	!
#-PD #-ECP #-MDRULES		
R: that I'm gonna follow up in a couple	9022m	-#
weeks. Give you both a call just to	9023	
see how things are going.	9024	-#

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